
United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles
(In 7 Volumes.)

MATSON NAVIGATION COMPANY, a Corporation,
Appellant,

VS.

UNITED ENGINEERING WORKS, a Corporation,
Appellee,

VOLUME IV.

(Pages 1105 to 1504, Inclusive.)

Upon Appeal from the United States District Court for the
Northern District of California, First Division

FILED

JUL 1 - 1913

United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles
(*In 7 Volumes.*)

MATSON NAVIGATION COMPANY, a Corporation,
Appellant,
VS.
UNITED ENGINEERING WORKS, a Corporation,
Appellee,

VOLUME IV.
(Pages 1105 to 1504, Inclusive.)

Upon Appeal from the United States District Court for the
Northern District of California, First Division

(Testimony of L. K. Siverson.)

Q. That is, Mr. Putzar took on himself authority which theretofore had been assumed by Klitgard?

Mr. FRANK.—I object to that assumption that he took it on himself.

Mr. McCLANAHAN.—Mr. Frank, you know as well as I do that is a perfectly proper question on cross-examination.

Mr. FRANK.—I will not argue it with you.

Mr. McCLANAHAN.—It is not fair for you to interject your objections in that way, which gives a witness a pointer as to how he may answer the question or avoid answering.

Mr. FRANK.—It is perfectly fair for me to make an objection to an assumption which has no foundation either in the record or in fact which is merely intended to mislead instead of to elucidate the fact.

Mr. McCLANAHAN.—Q. Mr. Siverson, I have no intention in my examination of misleading you in any way. When I put my [965—877] construction on your statement of the evidence, if it is wrong I wish you would tell me so. You will, will you?

A. I did not quite understand that.

Q. If I put my construction on your evidence wrong you will tell me so. Now, Mr. Reporter, read my construction of his evidence, which is objected to. I want to say, Mr. Frank, I have no intention to hamper you in your making proper legal objections to my questions.

Mr. FRANK.—That is what I am trying to do.

(The Reporter reads the question to the witness.)

A. Well, that is a very difficult question for me to

(Testimony of L. K. Siverson.)

answer. I do not know whether the man took the authority on himself or whether he was vested with the authority from someone else.

Mr. McCLANAHAN.—Q. Mr. Putzar seemed, then, to take on, towards the latter part of the job, the authority which Mr. Klitgard theretofore had assumed?

A. I do not mean to say that Mr. Klitgard resigned his authority, by any means, because Mr. Klitgard did not resign his authority. Nothing was done without Mr. Klitgard's consent, but it appeared as though Mr. Klitgard allowed Mr. Putzar to make suggestions as it were.

Q. Mr. Klitgard allowed Mr. Putzar to assume broader powers than he did at first; is that the idea?

Mr. FRANK.—He has answered you fully.

A. Yes, sir, that is all right.

Mr. McCLANAHAN.—Q. Now, Mr. Siverson—

A. (Intg.) Excuse me; I want to make another statement regarding that. I do not wish to say that it was Mr. Klitgard who done this. I do not know anything about that. I am not supposed to know what was going on between Mr. Klitgard and Mr. Putzar. I am just stating what appeared. [966—878]

Q. I understand. I understand that you assumed the management of this work as soon as the vessel was turned over to the United Engineering Works; is that correct?

A. It was either one or two days following, I think it was the day following, that the ship arrived, be-

(Testimony of L. K. Siversen.)

cause we had an accident at the power-house at the United Engineering Works just the day the vessel got in. The dynamo broke down and we were unable to get any power as we did not have any connection with the city. I was working night and day—it happened that Mr. Nelson and I were working night and day on that dynamo in the power-house to get that finished, in order to get the machine-shop in operation; and the day following—I think it was the day following—I took charge of the “Hilonian.”

Q. Now, when you took charge did you know then that it was a rush job?

A. I was told it was a rush job.

Q. Who told you that?

A. Now, I would not say specifically who told me that it was a rush job because that I cannot remember, but I was given to understand that the ship was to be out in a certain length of time, and the job was to be rushed through as quick as it could be done.

Q. Were you not told and given to understand that the job must be finished in 25 days?

A. That I do not remember, Mr. McClanahan.

Q. Did you ever see the specifications?

A. Yes, sir, I had a set of specifications.

Q. See if you can recognize these as the specifications that you saw (handing).

A. I want to say something before I answer that. I have handled a good many specifications since that time and it would be very difficult for me to tell whether these are the specifications that I got. [967—879]

(Testimony of L. K. Siversen.)

Q. Of course you cannot tell until you look it over. Please look it over.

A. Yes, I will. (After examination.) This looks like the specification, inasmuch as the majority of the work here stated was done, but there was a lot of work done that is not stated here. Here is the instance of this column.

Q. What number is that?

A. No. 7. That column was never put in.

Q. What was done instead of the column?

A. Instead of the column there was a composition of bronze patch cast and fitted to take the housing and condenser down over the entire plate underneath.

Q. That took the place of the column; performed the same work?

A. Yes, sir, it was reinforced, the part where the house was cracked.

Q. You have read all this?

A. Yes, sir. [968—880]

Q. Your recognition is of the specifications as they originally came into your hand but you want to qualify that by saying there were changes in them?

A. There were changes made in the work.

Q. In this work?

A. There were lots of changes made in that work there, but you know I have seen a lot of specifications since the time and I would not say that these are the specifications that I received at that time.

Q. But it looks like them?

A. It looks like them; yes.

Mr. McCLANAHAN.—I ask that this be marked

(Testimony of L. K. Siverson.)

Respondent's Siverson's Exhibit "A."

Mr. FRANK.—We object to it on the ground, in the first place, that it is incompetent and immaterial, and in the second place that this entire examination is not proper cross-examination.

(The document is marked Respondent's Siverson's Exhibit "A.")

Mr. McCLANAHAN.—Q. I believe you stated that you knew when you first took hold of the job that it was a rush job, Mr. Siverson? A. Yes.

Q. And you did not remember where you got that idea? A. No, I did not.

Q. Well, does not an examination of Respondent's Siverson's Exhibit "A" refresh your recollection now as to where you got the idea that it was to be a rush job?

Mr. FRANK.—I object to that; in the first place Respondent's Siverson's Exhibit "A" is not a paper made out by him and not a paper on which he can refresh his recollection; and in the second place, he has not testified that it is a true copy of the specifications that he received, only it looks like it, and therefore it is not a proper paper from which a witness can refresh his recollection. [969—881]

Mr. McCLANAHAN.—Then I call upon the libellant in this case to produce the copy of the specifications referred to by the witness.

Mr. FRANK.—Very well; if we can find them, we will produce them.

Mr. McCLANAHAN.—Let us have them now.

Mr. FRANK.—I have not got them.

(Testimony of L. K. Siverson.)

Mr. McCLANAHAN.—Then I shall claim that this is a copy and claim the privilege of examining the witness on this copy.

Q. Mr. Siverson—

Mr. FRANK.—One moment; that does not do away with the objection.

Mr. McCLANAHAN.—No; I understand the objection is made.

Mr. FRANK.—Of course I can't stop you making the examination; we are not in court and we have nobody to rule upon it. The objection stands.

Mr. McCLANAHAN.—Q. Mr. Siverson, you have examined a number of stock cards in this case, have you not? A. Yes, sir.

Q. That were not made out by you?

A. Yes, sir.

Q. And the examination of the cards has helped your memory, has it not, in the particulars to which you have testified? A. Oh, yes.

Q. Now, I am asking you to examine this particular exhibit which you think looks like the specifications that you originally had and see if an examination of that does not help your memory as to the source of your information that this was to be a rush job.

Mr. FRANK.—That does not remove or cure the objection. I still insist upon my objection.

Mr. McCLANAHAN.—That is all right.

A. I wish to say, in answer to your question, that I was given to [970—882] understand that the "Hilonian" job was a rush job long before I ever

(Testimony of L. K. Siversen.)

saw any specification; before ever the "Hilonian" came in there I was given to understand that the "Hilonian" job was a rush job.

Q. So that must have come from somebody in the United Engineering Works?

A. Well, presumably so; presumably so. I could not say that.

Q. So when you got the specifications—

A. I knew, as I say, that the "Hilonian" job was a rush job before ever I saw the specifications.

Q. And before the ship had come to the yard?

A. Yes, from rumors. Now, I will not say that my source of information as regarding the rush job was from the specifications because I cannot remember at that time having the specifications; and there are other things than the specification I can't remember.

Q. Now, will you take the specifications, Exhibit "A"—will you examine the first item of the specification there and tell me if that work was not done on the ship?

A. This work was done, and more work was done to the air-pump than what it says here.

Q. What further work was done to the air-pump?

A. All parts of the air-pump was removed to the shop and put in the lathe to true up the faces.

Q. Anything else?

A. And I think the air-pump bearing was bored out. Now, that I am not positive of.

Q. Anything else?

(Testimony of L. K. Siversen.)

A. The part that the air-pump sits on was also bored out.

Q. Anything else?

A. There were additional studs put into the condenser, under the holes.

Q. Yes; but none of the studs were enlarged, were they? [971—883] A. Oh, yes.

Q. Studs were enlarged and additional studs put in? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. Anything else?

A. Well, that is all I can remember just now.

Q. Now, turn to No. 2 of the specifications; that work was not done, was it?

A. Well, now, this work here, I began to think of that when I first saw it. I do not know whether that work was done or not, because I had three jobs after that that had this same work on the specifications, and I can't remember whether that was done or not.

Q. Let me refresh your memory. Don't you remember that instead of No. 2 of the specifications you put on a balance cylinder on to the low pressure?

A. Yes, I know we put on a balance cylinder; I know that.

Q. Don't you know that work was intended to take the place of the No. 2 item of the specifications?

A. No; that I do not remember, sir. That I will not say anything about the removing of that seat, because I don't remember that.

Q. Turn to No. 3 of the specifications; was not that work all done? A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. Turn to No. 4 of the specifications; was not that work all done? A. Yes, that work was done.

Q. No. 5 of the specifications; was not that work all done?

A. There was some eccentric straps remetalled, but I don't remember which ones they were. I think though that the high pressure and the low pressure were among them, but I don't remember now if those straps were remetalled, or if there were brass liners cast for them; I think there was brass liners cast and placed in those [972—884] straps. I might have that mixed up with some other job. I would not say, but I think there was some brass liners cast in semi-circular form and screwed into the top half of the straps and fitted in that way, and also had to be offset on account of the liner from the valve stem to the eccentric not being fared.

Q. That is your recollection of the work done under No. 5?

A. Yes, that is my recollection. I am not positive whether these brass liners, as I say, were put in there or remetalled, but I think it was the brass liners.

Q. Turn to No. 6, please, Mr. Siversen; that work was completed, was it not, as specified?

A. Yes, sir.

Q. Turn to No. 7; that work you say—

A. (Intg.) Was not done.

Q. Was not done as specified, but instead a manganese patch was put on?

A. Yes, a bronze patch was put on and fitted for the bolts and pumped full of red lead putty.

(Testimony of L. K. Siverson.)

Q. Turn to No. 8; that work was done as specified, was it not?

A. Stripped crank-shaft of oil reciprocating gear was done.

Q. No. 8 we are talking of.

A. I made a mistake. Yes, those were all done.

Q. That was done? A. Yes, sir.

Q. Now, turn to No. 9; is it not so that No. 9 was done with the exception that the crank-shaft was not removed to the shop?

A. The work was all done with the exception of the removing of the crank-shaft and the boring of the bearings in place.

Q. That is your answer, is it?

A. But there was additional, other work.

Q. Yes, I understand.

A. But you are not asking about that.

Q. I am not asking about that. It was all done except the removing of the crank-shaft and the boring of the bearings in place? [973—885]

A. Yes, sir.

Q. Now, turn to No. 10; was not that work all done?

A. Yes; that work was all done, as far as I can remember.

Q. Turn to No. 11; was not that work all done, as called for? A. Yes, that plate was put on there.

Q. The work was all done as called for by that specification?

A. There was work—if I don't remember wrong, there was work entailed by the placing of this plate

(Testimony of L. K. Siversen.)

there that was not originally calculated on.

Q. Well, now, you are getting away from my question, I think, Mr. Siversen. I want to know whether the work called for in No. 11 of the specifications was all done; there might have been other work.

A. It was done.

Q. It was all done?

A. Yes, that part of it was done.

Q. Now, examine No. 12 of the specifications and tell me whether that work was not all done as called for by the specifications. A. Yes, that was done.

Q. The cement was only put under the boilers?

A. No; there was bitumastic.

Q. Don't you remember that cement was only put under the boilers?

A. No, sir. I think there was bitumastic all over this engine-room and boiler-room tank-tops. There was cement on the tanks in the hold.

Q. Did you have particular charge of that work?

A. Of the bitumastic work, no. But I remember that while the bitumastic man was working under the boiler the smoke was so dense that all our men had to quit on account of it, and the man, the bitumastic man, had to come back during the night. [974—886]

Q. Then that work was done as called for by the specifications, as you remember it—No. 12?

A. Well, the way I understand, yes. It says that the bitumastic is to be covered with two inches of cement. Isn't that what it means?

Q. Yes.

(Testimony of L. K. Siversen.)

A. Well, I do not remember if that was done. I do not remember that that cement was on top of the bitumastic, I can't remember that.

Q. But with that exception the work was done?

A. Yes, sir.

Q. Now, turn to No. 13; was not that work done as called for by the specifications? A. I don't know.

Q. That is not in your department?

A. No, sir.

Q. Turn to No. 14; was that work done as called for, or do you know?

A. That work was undoubtedly in my department, but I don't remember it.

Q. That is No. 14; you do not remember that?

A. Yes, 14 was in my department, but I don't remember it.

Q. Let me see if I can refresh your memory. Don't you remember that the repairs called for by 14 to the windlass were not done, but that two channel iron supports were supplied and fitted under the break of the forecastle-head?

A. Well, that part, as reinforcing the deck under the forecastle-head, that would not be in my department.

Q. So you would not know anything about that?

A. No.

Q. Now, don't you remember that the repairs to the windlass were not made? A. I do not, sir.

Q. You do not remember.

A. I do not recall anything about what was or was not done to the windlass.

(Testimony of L. K. Siversen.)

Q. What about No. 15; was not that work done according to the specifications? A. Yes, sir.
[975—887]

Q. Now Mr. Siversen, you had these specifications with you right along as the work went on, didn't you?

A. I had a set of the specifications.

Q. And worked according to the specifications, did you not, in the particulars where the specifications were carried out?

A. Well, really the specifications were consulted—when any particular line of work came up that was called for by the specifications, Mr. Klitgaard and Mr. Putzar would be called and their opinion would be asked regarding so and so, in which manner they wanted it done.

Q. And it would be done in that way?

A. It would be done in that way.

Q. So that when any of the specification work came up you consulted with Mr. Klitgaard or Mr. Putzar? A. Yes, sir.

Q. And you then did the work according to their suggestion? A. Yes, sir.

Q. Did you know, Mr. Siversen, that the work being done under the specifications was a contract job? A. No, sir.

Q. You did not know that?

A. No, sir. I heard rumors, though, if you wish me to make the statement.

Q. Never mind the rumors.

Mr. FRANK.—Rumors are not evidence, Mr. Siversen.

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—Q. I believe you have stated that a rush job requiring overtime work increased the cost of the work. Is that true?

A. Yes, sir.

Q. Because it increased the necessity or raised the necessity for an increased amount of labor?

A. I wish you would word that otherwise. [976—888]

Mr. FRANK.—Q. Word it yourself; frame it yourself.

A. Well, I can answer what my opinion of it is.

Mr. McCLANAHAN.—Q. Yes.

A. That when a certain piece of work has got to be done that ordinarily takes three days to do, if it has got to be done in one day it will cost more than if it was done in three days.

Q. Well, one of the elements of the increased cost would be the increased amount of labor necessarily put on it? A. Why, certainly.

Q. A greater number of men would have to be put on it?

A. Yes, because the men could not work in harmony with one another.

Q. You would not increase, then, the cost of a particular job that you were given to work out unless you had authority to do so from the office, would you,—the office of the United Engineering Works?

A. Personally, you mean?

Q. Yes.

A. Why, if I am given a certain piece of work and my superiors tell me that this work has got to be

(Testimony of L. K. Siversen.)

done at such and such a time—

Q. Yes.

A. (Contg.)—why, I will do everything that I know to get the job done in such and such a time.

Q. Exactly. But if I should come down and say to you, you have got to finish this work so as to have it out in a certain time, you would not pay any attention to me, if my request involved an increased value of the work.

Mr. FRANK.—What has your request got to do with it? I can't understand that; you are no party to the transaction.

Mr. McCLANAHAN.—Object to the question if you want to. [977—889]

Mr. FRANK.—That is my objection; it is immaterial. What you would request has nothing to do with this case.

Mr. McCLANAHAN.—Q. Do you understand my question?

A. Yes. You mean if you personally should come down and—

Q. (Intg.) Ask you to increase the cost of the job, you would not do it, increase the cost of the job?

A. That is not the way you stated it at first.

Q. Well, that is what I mean, make a rush job of a job that was not a rush job—you would not do it?

A. If I knew who you were and knew you had anything to do with the ship, and if you came down and wanted the job done quicker, I would not take any steps before I went and consulted my superior, and say, “Mr. So-and-So has come down to the shop

(Testimony of L. K. Siversen.)

and he says that he wants the job rushed right through, what am I going to do with it.”

Q. That is what I thought. You would not act without authority from the office, would you?

A. No, not in that respect.

Q. Now, you spoke of the ship being detained in the drydock longer than had been anticipated. What was the meaning of that evidence? Did you have any idea how long she was going to be in drydock under the original specifications?

A. I think that they figured on getting the ship off dock in four days.

Q. That is, they figured on that under the original specifications?

A. They figured on that from the amount of work that they thought was to be done.

Q. Under the original specifications?

A. Well, whether it was under the specifications or from anything else I don't know. In fact, I will tell you that, as far as the outside work that was [978—890] done, outside the ship, is concerned, that I did not have directly charge of.

Q. You have been giving testimony, Mr. Siversen, about the drydocking of the ship.

A. I have, inasmuch as I know that what detained the ship on the dock was the boring of the shaft—

Q. Detained it from what?

A. Well, it was longer than they anticipated.

Q. Who anticipated—longer than who anticipated?

A. Well, I could not tell you just who said that

(Testimony of L. K. Siversen.)

they intended to put the ship on the dock four days, but that is what I understood. I don't remember now who said it.

Q. You understood from somebody that the ship was going to be on the dock four days?

A. About four days.

Q. Under the work as originally contemplated?

A. Yes, the work that they intended to do, the removing of the wheel and fitting a new one, and removing the stern bearing—

Q. And painting the ship?

A. And painting the ship. I don't remember whether they intended to do anything to the rudder or not. I don't remember that.

Q. But you know that there was in the contemplation of somebody a certain time anticipated for the docking of the ship and that that time was extended necessarily by the reboring of the gudgeons. Is that your evidence?

A. I mean to say that the ship was on the dock longer than they wanted her to be, longer than they expected her to be, and I know that they were anxious to get the ship off the dock.

Q. Well, that is the case of every ship that comes to your yard, is it not, they want the job finished as soon as possible so as to have their ship back?
[979—891] A. Well, I mean the management.

Q. What management?

A. The management of the United Engineering Works, because the "Hilonian" was not finished when she got off the dock.

(Testimony of L. K. Siversen.)

Q. I see; the management was in a hurry for the ship to get off the dock?

A. Yes, because they wanted the dock.

Q. The management of the United Engineering Works was in a hurry to finish the job too, was it not?

A. They wanted to finish the job on the "Hilonian," yes.

Q. You do not remember the men that worked in your department on the "Hilonian" at that time, do you?

A. No, sir.

Q. I think you said something about the removal of the plates in the shaft-alley on your direct examination. Do you remember that, or am I mistaken?

A. Yes, there was plates in the shaft-alley removed in order to remove that additional piece of shafting that had to go to the shop.

Q. Are you sure of that?

A. Yes, positive.

Q. You mean plates were lifted up?

A. I mean that plates were taken out of the side of the shaft-alley.

Q. So as to enable you to get the shafting out?

A. Yes, sir.

Q. And those plates were replaced, of course?

A. Yes, sir.

Q. Do you remember what work was done on the piston rods?

A. The piston rods were trued up, put in the lathe and trued up.

Q. All of them, or only the intermediate?

(Testimony of L. K. Siverson.)

A. Well, that I don't remember.

Q. Don't you know there was not anything done on the high and low pressure piston rods?

A. I don't remember; I won't say. [980—892]

Q. Don't you remember that the intermediate was trued up?

A. I remember there was some piston rods trued up but I don't remember which was trued up.

Q. You remember that there was work done on the condenser tube heads, do you not?

A. That I don't remember.

Q. You don't remember that?

A. I don't remember.

Q. Do you remember that none of the cylinders were removed from the ship—I withdraw that question. Do you remember that none of the cylinders were taken to the shop?

A. Well, there was none of the main engine cylinders taken to the shop, as far as I can remember.

Q. What was done with the cylinders? They were put on the dock, were they not?

A. The cylinders?

Q. Were they taken out of the ship at all?

A. Not that I can remember.

Q. Not taken out of the ship at all?

A. Not that I can remember.

Q. Of course there was this balance cylinder, this small affair that was brought from the shop.

A. That was a new one; that was designed by the shop. Of course that necessitated a new low pressure valve stem and the boring of the facing out on

(Testimony of L. K. Siversen.)

the shop for it.

Q. You know that the reversing shaft was never removed to the shop, don't you?

A. I don't remember that.

Q. Do you remember any work done on the reversing shaft? A. No, I don't remember.

Q. I call your attention to the high pressure eccentric rods; do you remember any work being done on those? A. On the rods?

Q. On the high pressure eccentric rods.

A. No, I don't remember anything being done to the rods. [981—893]

Q. Now, on your direct examination you spoke of certain bolts being used for the gear casing; do you remember that? A. Yes.

Q. You identified certain bolts on certain stock cards? A. Yes, sir.

Q. Well, now, Mr. Siversen, that gear casing, after it was bolted up was riveted, was it not?

A. Yes, sir.

Q. Were not the bolts then taken out and then taken to the shop?

A. Bolts like that, you know, their threads are stripped and they are thrown over; sometimes they are cut off. They are only little stove bolts and it would cost more to try to pick up those bolts and save them than the bolts would be worth if they were saved.

Q. The bolts, however, were necessary—

A. (Intg.) To bolt it up.

Q. To bolt the thing up preparatory to riveting?

(Testimony of L. K. Siversen.)

A. Yes, sir.

Q. Then they were taken out?

A. Yes, sir.

Q. You say they are worthless and thrown away; is that the idea?

A. A little bolt like that, I do not think they would ever be used again.

Q. Cast into the scrap pile? A. Yes, sir.

Q. Now, I want to call your attention to your testimony given with reference to the time-cards of the men working in your department on the ship. Do you remember you said that you checked up those time-cards with the timekeeper the next morning?

A. Yes, sir.

Q. What did you mean by checking them up?

A. I mean that as soon as I had the men placed at the work and I possibly could spare a little while away from the work down on the ship I would go up to the office of the timekeeper, and he would have all the cards of my men that had worked the previous day stacked up and we would go over the cards, and one man would [982—894] have his number of hours right and the job number perhaps right, and he would have the name wrong, or *vice versa*, he would have the name wrong and the number of hours wrong, or the job number wrong, and I would tell the timekeeper that that man worked on so and so.

Q. Do you pretend to say now that you could the next day tell the correct number of hours that each man under you in your department was working on a particular job number? A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. How many hours constituted a day's work at that time?

A. Well, that I don't remember whether it was $8\frac{1}{2}$ or $8\frac{3}{4}$, but our working day at that time was in a decreasing scale; it was on account of an agreement between the Metal Trades Association, I understand, and the Iron Trades Council.

Q. Now, assuming that the working day was $8\frac{1}{2}$ hours at that time. A. Yes, sir.

Q. How many hours were the men paid for working on the ship in your department?

A. The men was paid for 9 hours, I think, at that time.

Q. That is something you ought to remember, Mr. Siversen. A. Well, I don't remember.

Q. The time-cards show the number of hours paid for, do they not? A. No, sir.

Q. What did the time-cards show?

A. The time-cards showed—there was a system in vogue by which the men worked nine hours and got 10 hours' pay. Now, this system became changed, inasmuch as the day began to decrease and as the day decreased this bonus hour as it were, if I don't remember wrong, decreased too. But this system [983—895] that they had of putting nine hours on the card, I think was in vogue until the men got the eight hours. I think the orders were that the men were to put nine hours on the card for a full day when the day constituted $8\frac{3}{4}$, and when it constituted $8\frac{1}{2}$ as well. I think, if I don't remember wrong, that it was the custom to put nine hours on the card just the same.

(Testimony of L. K. Siversen.)

Q That was the custom in your department on the ship?

A. It was the custom in the whole yard, as far as I remember.

Q. Was there any different custom that applied to work on the ship as distinguished from work in the yard or in the shop?

A. There was this, that they paid a certain amount more, whether it was half an hour more or three-quarters of an hour more, on the ship for the same length of time that they worked in the shop.

Q. That is, if the straight time pay in the shop was 9 hours, on the ship it would be $9\frac{1}{2}$ hours or $9\frac{3}{4}$ hours? A. Yes, sir.

Q. And if the working day under the Trade Metal Union contract was $8\frac{1}{2}$ hours at that time the men in making out their time-cards would pay no attention to that but would put down the hours that they were paid for; is that it?

A. No, not exactly to put down the hours that they was paid for.

Q. Well, I want to know what they did put down?

A. Well, they put down the nine hours.

Q. We are talking about the ship. If the straight time in the shop for which the men were paid was nine hours, on the ship it would be nine and a half or nine and three-quarters hours? A. Yes, sir.

Q. There was a bonus there?

A. Yes, sir. [984—896]

Q. What did they put down on their cards when working on the ship—the nine and a half or nine and

(Testimony of L. K. Siversen.)

three-quarters hours?

A. The nine hours just the same. The way they distinguish between the shop men in getting that bonus and the ship men getting that bonus is by the different cards they use. You know that when a man is working on the ship, and has a yellow card, he is entitled to that bonus; whereas, if a man is working in the shop, he uses a white card and is not entitled to that bonus.

Q. So, then, the cards used on the ship contained the nine hours which was allowed for work in the yard, but the bonus was allowed to the man because of the color of the card and because he was working therefore on the ship; is that it?

A. When you say that the card contained the nine hours, I am not so very positive about that, but I think that the custom still remained to put nine hours on the card, but they got the bonus hour.

Q. In addition to that?

A. In addition, no matter what they put on the card. If it was a full day, for instance, a man had worked eight and three-quarters hours or eight and a half hours, whichever it was, I don't remember, but they put nine hours on the card.

Q. And then when it got into the office the time-keeper would add to it the bonus?

A. The bonus, if it was a yellow card; if it was a white card, no bonus.

Q. So that they did not put on their cards the actual time worked but instead they put down the actual hours for which they received pay. A. No.

(Testimony of L. K. Siverson.)

Mr. FRANK.—He did not say that at all.

Mr. McCLANAHAN.—Let the witness say what it was. [985—897]

The WITNESS.—That is not what I mean at all.

Mr. McCLANAHAN.—Q. Well, I think it is, Mr. Siverson. I have not expressed myself clearly. Let us settle this first. They did not put on the cards the number of hours actual work? A. No, sir.

Q. Instead, they put on the nine hours which is the regular day, the number of hours in the day for which they received pay, plus the bonus?

A. No, I would not say that that is the reason why they put down the nine hours. I don't know what the reason was; presumably because of some change in the bookkeeping that they did not wish to do until the final eight hours came; maybe that was it. But it was usual to put down nine hours; when we had the nine hour day the man put down nine hours and if it was a yellow card he got paid for ten.

Q. He put down the nine hours.

A. That is when we were working the nine hour day.

Q. Although he only worked eight and a half hours—

A. If that was the time during that period.

Q. That period. A. Yes.

Q. Now, if he was working, and I refer to the man, if the man was working on say three job numbers on the ship in one day. A. Yes, sir.

Q. And he worked on one of the jobs, that is, his card would show he worked on one of the jobs for

(Testimony of L. K. Siversen.)

say one hour, and his card would show that he worked on another job for two hours, and his card would show that he worked on the third job for six hours, that would make nine hours, you see. A. Yes, sir.

[986—898]

Q. One hour on the first job number, two hours on the second, and six hours on the third.

A. Yes, sir.

Q. Could you tell from that card where the one-half hour was absorbed if the working day was only eight and a half hours at that time? What job number absorbed a half hour?

A. That half hour would usually go to the place that they worked longest.

Q. Usually go to the place that they worked longest? A. Yes, sir.

Q. So that in the case that I have put to you, the half hour would go on the six hour job?

A. Yes, sir.

Q. So that on the cards calling for six hours the men would actually have worked on them for five and a half hours?

A. Well, that would be usually the way. There was no fast-and-hard rule for that.

Q. It was left to the man, was it, who made out the card?

A. It was left to the judgment of the man.

Q. Who made out the card?

A. Yes; that is, providing the man knew.

Q. Knew what?

A. What was the number of the jobs he was work-

(Testimony of L. K. Siversen.)

ing on. You remember I said that oftentimes I had to revise the numbers that were put on the cards.

Q. That would make it very difficult for you to check up the time, would it not, the actual time worked on each particular job number?

A. I do not see that it would make it difficult.

Q. You would assume when you came across a card such as I have placed before you he worked five and a half hours on that job, on that last job—the six hour job? [987—899]

A. Yes. I cannot say that I was ever so particular as all that about that half hour, that I would sit down and have scruples over whether I should take 10 or 15 minutes on one job and some more on another. I was not so particular about the making up of a card as all that. I knew that the men had been working a whole day and I knew that the man was entitled to his pay, and I knew that the man had been working. I would not say that I knew that the man was working so many minutes on this job and so many minutes on the other job and so many more minutes on the third job; that would be impossible. But I would know, for instance, I had a man working on a certain piece of work and he got finished, and he came and asked me for another job, why, if it was 10 o'clock or around that, I would put down that time from 10 o'clock, that he started at 10 o'clock.

Q. You would put it down?

A. Well, if the man had not done it right himself.

Q. You also spoke of Mr. Putzar as also keeping time. What do you mean by that?

(Testimony of L. K. Siverson.)

A. I meant—I did not say that Mr. Putzar was keeping the time.

Q. What do you mean?

A. I said that Mr. Putzar was introduced to me as the company's representative and the man who was going to keep time, but Mr. Putzar did not confer with me on the time.

Q. Did you ever see him keeping time?

A. Mr. Putzar—you mean if he went around the men, or in which manner do you mean?

Q. I don't know. I am trying to find out whether you know anything about his timekeeping.

A. I don't know in which method he kept the time.

Q. Do you know that he did keep the time?

A. I don't know. I [988—900] know that he was counting the men every day.

Q. He was counting the men.

A. He was counting the men over every day.

Q. Is that all you know about keeping his time?

A. I did not confer with Mr. Putzar as to the manner in which he kept the time, so I don't know.

Q. Did he confer with anybody else in your presence?

A. Not in my line. You know I did not have anything to do with the office. I understood that he was up in the office every day and signed for certain time.

Mr. FRANK.—What do you propose to do—to repudiate your own timekeeper, Mr. McClanahan?

Mr. McCLANAHAN.—What is this, an objection, or what?

Mr. FRANK.—Well, it is an objection. I am

(Testimony of L. K. Siversen.)

asking if you intend to repudiate this timekeeper.

Mr. McCLANAHAN.—Do you mean to criticise my cross-examination of the man on the question of Mr. Putzar's timekeeping?

Mr. FRANK.—I do. It is incompetent and immaterial.

Mr. McCLANAHAN.—You brought it out yourself.

Mr. FRANK.—I do not think so. This method of examination is improper and immaterial.

Mr. McCLANAHAN.—Make your objection.

Mr. FRANK.—I am doing it.

(Thereupon the witness was excused until tomorrow morning, Friday, September 15th, 1911, at 10 A. M., and a recess was taken until 2 P. M.)
[989—901]

AFTERNOON SESSION.

**[Testimony of William S. Taylor, for Libelant
(Recalled).]**

WILLIAM S. TAYLOR, cross-examination resumed:

Mr. McCLANAHAN.—Q. Mr. Taylor, did you ever hear any talk of work on the windlass?

A. No, sir.

Q. Never heard any talk on that? A. No, sir.

Q. Where were these channel supports placed that you spoke of in your testimony? Under the break of the forecastle-head? A. Yes, sir.

Q. There were two of them, were there?

A. There were two of them, to my knowledge. There were more, I think.

Q. But you know there were two?

(Testimony of William S. Taylor.)

A. I know there were two.

Q. Did you have anything to do with the testing of the bulkheads, of the fore and aft peak tanks?

A. Yes, sir.

Q. I hand you Respondents' Siversen Exhibit "A," and call your attention to the third article of the specifications, and ask you if that work was done.

Mr. FRANK.—We make the same objection to that as we did to the use of that this morning.

Mr. McCLANAHAN.—Q. Was that work done according to the specifications there, Mr. Taylor?

A. Yes, sir.

Q. It was? A. Yes, sir.

Q. When that work was done, did you have the specifications before you?

A. I cannot recollect of these specifications at all.

Q. You cannot recollect what?

A. Of these specifications. I cannot recollect of having specifications. [990—902]

Q. Mr. Taylor, don't you remember that these two channel supports under the forecastle-head were ordered put there by Mr. Klitgard and not by Mr. Putzar?

A. I remember that Captain Saunders was instrumental in having them put there, after conference with Mr. Christy in regard to the matter.

Q. And you don't remember that Klitgard had anything to do with it?

A. The captain of the ship had in a way. He showed up that work—

Q. Please answer my question. You do not remember that Klitgard had anything to do with it?

(Testimony of William S. Taylor.)

A. No, sir, I don't remember that he did.

Q. But you do remember that Putzar had something to do with it? A. No, sir.

Q. You said so in your redirect examination or in your previous examination.

A. Not in regard to them stanchions.

Q. You said on your direct examination, at page 845: "Well, I will take a case in point, the repairs to the stanchions. As I recollect, the forward deck had settled and the stanchions were all doubled up. They were round stanchions at that time, the old original stanchions, and showed evidence of weakness, and we were advised by Captain Saunders and Engineer Putzar after looking over the job, that the best thing to do in that case would be to put in channel iron stanchions, double in cases." That is the same work, is it?

A. That is the same work, but I am positive of Saunders. I am not so positive of Putzar. In an indirect way he was looking over the work, and he may have been there, but I considered Saunders at that time the main party in taking advice from.
[991—903]

Q. Did you receive from Mr. Christy or anyone else connected with the United Engineering Works any direction to follow the orders of any other representative of the Matson Navigation Company except Mr. Putzar?

A. I never got any orders to work by Mr. Putzar at all.

Q. I will refer you to your testimony on page 862

(Testimony of William S. Taylor.)

of the record as follows—

Mr. FRANK.—What is this—direct or cross-examination?

Mr. McCLANAHAN.—This is cross-examination.

Q. “Who did you get your orders from?”

A. Mr. Christy.

Q. When did you commence to work on the ship?

A. I can’t remember.

Q. Well, I show you a card dated August 25th, ‘A455’; that refreshes your recollection to some extent that you were working on August 25th on the ship? A. Yes, sir.

Q. You had received orders from Mr. Christy to work under Mr. Putzar’s authority?

A. Yes, at that time, yes.

Q. And not under Mr. Klitgard?

A. No, Klitgard had not very much to say in the matter; only Putzar seemed to be the man that we had to go by at that time.” A. Yes, sir.

Q. Don’t you remember making that statement?

A. I did. I had previously received orders from Mr. Christy to go ahead with the work. I had in a way to work in conjunction with Mr. Putzar.

Q. This statement of yours is that you received from Mr. Christy orders to work under Mr. Putzar’s authority?

A. No, sir, I was mistaken then if I said so.

Q. Did you receive orders from Mr. Christy to work under anybody’s authority connected with the Matson Navigation Company? [992—904]

A. No, sir.

(Testimony of William S. Taylor.)

Q. If Mr. Putzar or Mr. Klitgard or Captain Saunders asked you to do any particular work, would you do it, or would you refer it to somebody in the United Engineering Works?

A. I would. I would refer it to Mr. Christy.

Q. All work that was done under your supervision was done then with the sanction and consent of both Mr. Christy and the representatives of the Matson Navigation Company? A. Yes, sir.

Redirect Examination.

Mr. FRANK.—Q. Mr. Taylor, you were shown this Exhibit “A” and asked about 13; did you read over 13 fully before you answered?

A. I think I did; yes.

Q. Read it over once more. A. Yes, sir.

Q. Do you remember what you were asked concerning that? A. After we had the water in the tank—

Q. What were you asked on cross-examination respecting that—do you remember?

A. If that work was done; if I knew that that work was done.

Q. No, that is not the question that was asked you. You were asked if you knew if it was done according to the specifications?

A. Yes, sir, that was the question that was asked.

Q. Was it done according to the specifications?

A. It was, and a great deal more than the specifications covered.

Q. When the work was first pointed out to you to be done, was all the work to be done under that section 13 included that you did under that head?

(Testimony of William S. Taylor.)

A. No, sir.

Q. Why did you do so much more work under that head No. 13, [993—905] from that which was originally pointed out as the work to be done under that?

A. In the forepeak after it was filled with water and the bulkhead examined it showed evidence of leakage around the ends of the stringers where they connect to the bulkhead, and I informed Mr. Christy of that fact and they had a conference.

Q. Who had a conference?

A. Mr. Christy and Captain Saunders, Mr. Klitgard, Mr. Putzar and I think possibly the Captain of the ship, and Mr. Clark of the United Engineering Works.

Q. A conference about this condition?

A. About this condition.

Q. Because it was different from what it was represented to be when you started in on the work?

Mr. McCLANAHAN.—That is objected to as suggestive and leading.

A. Not different; no.

Mr. FRANK.—Q. Why?

A. These leaks—there was nothing specified in regard to the leaks in the specifications.

Q. Go on. A. It calls for them being tested.

Q. What being tested?

A. The forepeak and the afterpeak.

Q. And when you tested it you found this condition? A. Yes, sir.

Q. Now, what did that require after the confer-

(Testimony of William S. Taylor.)

ence? What did they decide?

A. They decided to cut out the loose rivets and make up shoes and several other jobs. I don't recollect all that was done to that bulkhead.

Q. What is the usual method of removing those rivets? A. Cutting them out and renewing them.

[994—906]

Q. What was the object of the consultation?

A. To get orders to go ahead with the work, not being specified to do that.

Q. What was the result of the conference, if you remember?

A. They were called together there and the work was looked over the same as if this is the bulkhead here (illustrating) and the water is on top, and you find leaks over here and elsewhere. The consultation was in regard to the best method of remedying it.

Q. Of remedying it? A. Yes, sir.

Q. What did you try to do?

A. As I stated, we cut out loose rivets, and where these stringers connect to the bulkhead—bilge stringers. I think there were two on each side which showed evidence of leakage, but the worst leak was on the port side, the lower of the two.

Q. Well, what did you do? That is what I am asking you. What did you do?

A. Well, we cut out the loose rivets and renewed and made up new fittings, angle-iron shoes, I think, around the bilge stringers, where it connected to the bulkhead.

Q. Was there anything else that you did?

(Testimony of William S. Taylor.)

A. We overhauled all the caulking, made up any leaky parts, leaky rivets, and put it in first-class shape.

Q. You have spoken of these angle-iron shoes. Just describe them a little more particularly, what is necessary to be done.

A. Well, of course I am hazy—there are different methods of procedure in connection with a bulkhead with these bilge stringers. Sometimes they are run through the bulkhead and sometimes not. I think the method of these is that they run through the bulkhead and a shoe worked around the outside of it, or it may have been a plate, and we worked a shoe inside, which [995—907] is a more efficient job. ‘

Q. Is it a very extensive job?

A. A nasty job, a hard job. We have got to work the angle-iron, get it worked by the blacksmith. It does entail considerable work. It is a hard place to get at and to make good if it is not properly made at the start at the beginning of the building of the vessel, if they do not go the proper way about it.

Q. You said on your former cross-examination, that after you had begun work there were times when the representatives of the owner would change their minds as to the manner in which it was to be done?

A. Yes, sir.

Q. And then it would have to be torn out?

A. Yes, sir.

Q. And done over again in a proper way?

Mr. McCLANAHAN.—I object to that as not proper redirect examination.

(Testimony of William S. Taylor.)

A. Yes, sir.

Recross-examination.

Mr. McCLANAHAN.—Q. Mr. Taylor, the test of these tanks, as I understand it, showed a leakage where the stringers were connected with the bulk-head; is that correct? A. Yes, sir.

Q. And the object of the angle-iron shoes was to make the tank tight, was it not?

A. Yes, and strengthen it.

Q. Tight and strong?

A. Tight and strengthen it.

Q. It was a good way to do the job?

A. The best way I know.

Q. The tanks received two coats of cement wash, didn't they? A. Yes, sir.

Q. And they were cleaned out for a final test?

A. Yes, sir.

Q. And tested? A. Yes, sir. [996—908]

Q. The loose and leaky rivets were all removed?

A. Yes, sir.

Q. And new ones replaced them? A. Yes, sir.

Q. Please tell me what other work than that was done to those tanks.

A. That one that I have been talking of for the forepeak tank.

Q. I do not care which one you were talking of.

A. The after-peak tank was filled up under the same method, filled up with water, and we found that the water when they got a head on it rose up, and filled up all the way round the cold-storage room which was built in the between decks. You had to

(Testimony of William S. Taylor.)

walk around there, and the way the vessel was settled, it was settled over the stern, I guess there was about a foot of water over the tank aft, and we could not discover where it leaked. The Chief Engineer, Mr. Klitgard thought it leaked from the under side of the deck in the corners, but we made that up that we could discover no water from there. They emptied the tank. We went in, Mr. Klitgard, Mr. Putzar and Mr. Hurley I think were there, and looked over the tank in the inside; we discovered, in putting that cold-storage into the vessel, that the bolts securing the coamings of that cold-storage had not been grummeted up to insure tightness. We also discovered around that deck lots of holes without anything, that is, holes in the iron deck that were not filled up. After making due reports to the office to that effect we were ordered to make these faults good. Also in the corners, we were to take extra precautions, pumping putty where we thought necessary and otherwise to insure tightness.

Q. Anything else done? A. Caulking.

Q. The seams were caulked? [997—909]

A. The seams and around the deck, and bulkhead and elsewhere where we thought it necessary.

Q. And all this work you have been speaking of now, was done for the purpose of making the tank tight, was it not? A. Yes, sir.

Q. Anything else done?

A. The specifications were carried out, after that work was done, cleaning and washing *et cetera*.

Q. By these specifications you are referring to

(Testimony of William S. Taylor.)

specification 13 that was handed you?

A. As I recollect now, I don't remember seeing them before.

Q. Who was Mr. Clark that you referred to in your examination?

A. A draughtsman; a hull designer of the United Engineering Works.

Q. What work do you refer to as that which had to be done over because of a change of mind on the part of one of the representatives of the Matson Navigation Company?

A. Well, yesterday evening I was referred to two cards of similar nature on the same date for material in the engine-room.

Mr. FRANK.—Q. That is during your examination here? A. Yes, sir.

Mr. McCLANAHAN.—Q. You mean the checkered plate cards?

A. Yes, sir, a similar size and on a similar date. Thinking the matter over—I could not very well see why it should be so—but on thinking the matter over I know of a reason for it and why it occurs frequently in the procedure of that work.

Q. Are you now answering my question? I do not want to interrupt you if you are.

Mr. FRANK.—That is what he is doing.
[998—910]

A. I am trying to explain the reasons—what was it you said?

Mr. McCLANAHAN.—Q. I wanted to know what work you referred to as that which had to be done

(Testimony of William S. Taylor.)

over because of the change of mind on the part of a representative of the Matson Navigation Company? A. That is what I am coming to.

Q. All right, I will be patient.

A. We began the job and were ordered to do certain work; the pipe-fitters were ordered to do certain work; the machinists were ordered to do certain work. I may get my work done ahead of the machinists. In carrying out their work the pipe-fitter or machinist may conflict with my work and I would have to tear it out again.

Q. Is that your answer to the question?

A. Yes, sir.

Q. Cannot you be a little more specific and tell me the precise work that you referred to as having to be done over because of a change of mind on the part of a representative of the Matson Navigation Company? A. No, sir, I don't recollect of any.

Q. You don't recollect of any specific work?

A. No, sir.

Q. How are you enabled to testify that there was such work? A. It occurs daily.

Q. In all ships? A. In all ships.

Q. Then, you are not referring specially to the "Hilonian" job? A. No, sir.

Q. Does that occur, this tearing up of work after it has once been done, and redoing the work—does that occur when you are working under a contract for the work to be done on the ship?

A. I am not familiar enough in knowing about contracts. I don't know whether a job is contract

(Testimony of William S. Taylor.)

or otherwise. I am not informed. [999—911]

Further Redirect Examination.

Mr. FRANK.—Q. Mr. Taylor, when you caulk seams, how is the tank made tight?

A. It shows evidence of leaking where the two plates lap.

Q. What do you do to make it tight?

A. Caulk it with a tool.

Q. And you see to it that the caulking is perfect so that the tank will be tight; is that right?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

A. If the water is in the tank you have got to make it tight.

Mr. FRANK.—Q. I am asking you the means by which you make it tight, when you caulk a seam, the means by which you make it tight?

A. You caulk it.

Q. You caulk it securely? A. Securely; yes.

Q. When you put in new rivets how do you make it tight where the rivets go in?

A. We test the rivets. After the new work is completed we fill it up with water to insure its tightness.

Q. Nothing else is required to make it tight with reference to those particulars? A. No, sir.

(An adjournment is here taken until to-morrow, Friday, September 15th, 1911, at 10 A. M.) [1000—912]

Friday, September 15th, 1911.

**[Testimony of L. K. Siversen, for Libelant
(Recalled—Cross-examination).]**

L. K. SIVERSEN, cross-examination resumed.

Mr. McCLANAHAN.—Q. Mr. Siversen, since yesterday I have read with interest and pleasure your testimony in this case, and there are just a few matters that I want to understand a little more clearly before dropping my cross-examination. At page 883 of your testimony the record shows, in answer to my question, you say that the air-pump bearing was bored out. You meant the air-pump barrel, did you not?

A. Why, of course. Excuse me. I did not say that it was bored out.

Q. I am just correcting the record; you say, "Now, that I am not positive of."

A. No, I don't remember, whether it was or was not.

Q. But it should be "barrel"?

A. It should be "barrel," of course.

Q. Now, I want to ask you, Mr. Siversen, if you remember distinctly about the work done on the condenser where the bolts were enlarged, the studs were enlarged? A. Yes, sir.

Q. Do you remember distinctly that work? Your testimony was to the effect that not only were additional studs added but some studs were enlarged.

A. Yes, sir.

Q. Do you remember distinctly that work?

A. Yes, sir.

(Testimony of L. K. Siversen.)

Q. Don't you remember that the studs which were enlarged were such as were made necessary by making the holes larger, because they found that when they took the studs out the holes rusted and they had to rethread and therefore they were made larger on that account; don't you remember that was the case? [1001—913]

A. I want to correct that. I do not think that was the case, as far as I can remember. The studs were enlarged, the part of the stud that went into the condenser, the stud end of the bolt as it were was made a larger size than the part that goes through the flange, because we found that the hole was so close to the rib that we could not get the larger sized stud through the flange.

Q. So close to what?

A. To a rib of the casting, a reinforced rib in the casting; that we could not get the larger sized stud through this hole as the end would come so close to the rib.

Q. Well, this enlargement of those studs was not done for the purpose of adding strength of the job, was it?

A. Well, that I don't remember, whether it was for the purpose of increasing the strength, or whether it was because the holes were worn out in the condenser I could not say.

Q. You could not say.

A. I don't remember that distinctly.

Q. But the additional studs were put in for the purpose of strengthening, of course.

(Testimony of L. K. Siversen.)

A. Well, presumably.

Q. Now, you have spoken of the removal of plates in the shaft-alley. I think I got the wrong conception of what plates you meant. You did not mean any plates on the floor, but you meant plates in the bulkhead, did you not?

A. I mean plates in the bulkhead, in the side of the shaft-alley.

Q. Not on the floor? A. Not on the floor.

Q. Now, I called your attention to the balance cylinder work on the low pressure cylinder.

A. Yes, sir.

Q. You spoke of that work necessitating a new low pressure valve stem. Now, isn't it a fact that it did not necessitate a new low [1002—914] pressure valve stem but simply necessitated a lengthening of the then present valve stem?

A. Yes, that may be so; I am not positive about that. I do know, of course, that the balance cylinder could not be installed without having a part of the valve stem going up through into the cylinder, which it did not do before. But I will not say whether the valve stem was lengthened or a new one made; I don't remember distinctly.

Q. Now, let me direct your attention to your evidence on page 893 on that subject, where the question was:

“Q. Of course there was this balance cylinder, this small affair that was brought from the shop?

A. That was a new one; that was designed by the shop. Of course that necessitated a new low pres-

(Testimony of L. K. Siversen.)

sure valve stem and the boring of the facing out on the shop for it." That is evidently a mistake of the reporter, is it not, Mr. Siversen? A. Yes, sir.

Q. Did you not mean this: "Of course that necessitated a new low pressure valve stem and the boring and facing for same on the ship for it"?

A. On the engine, on top of the steam chest.

Q. Isn't that correct, "the boring and facing for same"? A. Yes, sir.

Q. Boring and facing for same is what you meant on the ship as against "facing out"?

A. Well, facing for same—what same? You are alluding to a cylinder? Yes, that covers it.

Q. What covers it, Mr. Siversen?

A. It is "and facing."

Q. The boring and facing for same on the ship.

A. Yes. But it should be on top of low pressure steam chest.

Q. That would be on the ship as distinguished from the shop? [1003—915] A. Yes, of course.

Q. That is the idea? A. Yes.

Q. Boring and facing for same on the ship.

A. Might I make an explanation?

Mr. FRANK.—Q. Certainly; get it clear.

A. The cylinder has a flange on the bottom. This flange has got to sit on top of the steam-chest. The steam-chest was not true, not being machined. There had to be a hole bored in the top of the steam-chest for the valve stem to pass up through into the cylinder. Where this flange in the cylinder sits on the steam-chest it necessarily had to be faced off

(Testimony of L. K. Siversen.)

square with the valve stem and a female was also made in the steam-chest.

Q. A female screw? A. No.

Q. A female.

A. A female is a recess in the metal.

Q. So facing out should have been facing off.

A. Yes.

Mr. McCLANAHAN.—Q. Now, as a last question I call your attention to your evidence, page 883 of the record, where, in answer to my question as to what else was done, you say: “The part that the air-pump sits on was also bored out.” Now, that air-pump sat on the condenser, didn’t it? Don’t you remember that?

A. I don’t recollect just how that air-pump was constructed, but I had reference at that time to the part that the air-pump barrel bolts on to; it also bolts on to the condenser. But perhaps I may be confused with some other job. Maybe that there is a casting on the condenser that comes out and provides for the barrel of this air-pump.

Q. The condenser, of course, was never out of the ship? A. No, sir.

Q. And if the air-pump sat on the condenser, that would be the [1004—916] bed-plate for the air-pump? A. For the air-pump, yes.

Q. That was never out of the ship?

A. The condenser was never out of the ship but I had in my mind a separate part that goes from the air-pump and bolts on to the condenser.

Q. But you are not clear on that?

(Testimony of L. K. Siversen.)

A. I am not positive on that.

Q. And you may be thinking of some other job.

A. Maybe. But at any rate, I remember now, which I did not yesterday, that that face that this barrel sits on, whether it was a separate piece or part of the condenser casting, that that face was trued up, filed up.

Q. How did they do that, on the ship?

A. On the ship.

Q. Did they rig up machinery? A. Filed up.

Q. By hand?

A. By hand; and trued up the face.

Q. What was the necessity for that?

A. In order to provide a perfect bearing surface between the barrel which had been turned in the lathe and the part that the barrel flange sits on.

Q. You remember that distinctly?

A. That I remember; yes.

Q. That is probably what you meant when you said that the part that the air-pump sits on was bored out.

A. I could not have said "bored out." If I did, I made a mistake. I must have necessarily faced that.

Q. That would be work done by hand on the ship?

A. If such is the case, that this support for the air-pump is part of the condenser casting.

Redirect Examination.

Mr. FRANK.—Q. While we are on that subject, Mr. Siversen, I understand that you are clear upon the subject that the barrel of [1005—917] the

(Testimony of L. K. Siversen.)

air-pump had to be removed from the ship and taken to the shop to be turned in the lathe.

A. Yes, sir.

Q. And that was because the face of the barrel was so rusty it could not be fitted as originally intended.

Mr. McCLANAHAN.—I object to that as suggestive and leading.

Mr. FRANK.—Q. I have a right to that, under the circumstances.

A. The faces of the air-pump barrel was not rusted—

Q. Well, what was it?

A. (Contg.) —as it was a brass barrel, if I don't remember wrong, but they were sprung.

Q. Sprung.

A. Not true. And as they insisted on a corrugated copper gasket as a joint between the faces the bore of the barrel would have to be perfectly true in order to make a tight job.

Q. In order to do that it was taken out of the vessel. A. Yes, sir.

Q. Right in that same connection, we will take up No. 1 of the specifications which were shown to you yesterday, in which, if I remember rightly, you said generally that that was done. Now, when you said that was done, did you mean to say that it was done in the manner specified in the specifications? Just see what No. 1 is.

A. (After examination.) No. I did not mean to say that. When I said that this job was done I

(Testimony of L. K. Siversen.)

meant of course that the purpose of the job was effected.

Q. But not in the manner called for?

A. This method of doing the work was not followed out.

Q. Well, the particular method in which it was followed out, whether or not that was a more expensive job than it would have been to have done it in the manner in which the specifications provided.

[1006—918]

Mr. McCLANAHAN.—I object to that as immaterial, irrelevant and incompetent.

A. It was much more expensive, of course.

Q. Now, at whose instance did you make that change, whether or not Klitgaard and Putzar authorized that changed method of doing that work?

A. Yes, sir.

Q. So that is the meaning, then, of your testimony on page 883 when you were asked concerning that specification and stated this work was done and more work was done to the air-pump than what it says there? A. Yes, sir.

Q. That is, it was not done in the manner provided for in the specifications?

A. It was done in a more thorough and more elaborate manner to make a first-class job.

Q. Had the specification been adhered to no part of that machinery would have been taken out of the ship, would it? A. No, sir.

Q. Now, if you will, just take the specification and proceed to follow it down with me with a view of

(Testimony of L. K. Siverson.)

ascertaining what work was and was not done according to the specifications. No. 2, I understood you to say, was not done, but a balance cylinder was made in the shop and placed as you have testified on the engine?

A. Yes. I don't remember of this thing being done, part 2. But I am not saying that the work was not done. I am just saying that I do not remember it being done.

Q. Don't you think you would remember it if it was done at all?

A. Well, I have been doing so many jobs of that kind, but I don't think it was done.

Q. Now, with respect to No. 4, read that over carefully and state [1007—919] whether or not that was done in the manner provided for in the specifications.

A. The work specified in No. 4 was done but not in the way it says here.

Q. Not the way it was provided for in the specifications? A. No, sir.

Q. In other words, the end was accomplished but not accomplished in the way in which the specifications called for it?

A. No. The steel plates that are mentioned here were so corroded that it was concluded that we could not make a job of it by using them and they were removed and the guides were planed off on the back and new and heavier steel plates were put on.

Q. How about the shoes?

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—That is what he means, doesn't he?

Mr. FRANK.—No.

A. I mean plates on the guide.

Mr. McCLANAHAN.—Q. Are not those the shoes? A. No, sir.

Mr. FRANK.—Q. How about the shoes?

A. Well, the shoes were made new; new shoes cast and I think they were of a different pattern in some manner to what they had been before.

Q. That is the old shoes were not reconstructed, but new shoes— A. New shoes were made.

Q. Were these new shoes filled with any metal?

A. They were filled with metal, the part that goes up against the guide, and the part that goes up against the backing guide as well.

Q. That is challenge metal?

A. Challenge metal.

Q. As I understand you, all of these changes were made after [1008—920] consultation with Putzar and Klitgaard? A. Yes, sir.

Q. And at their instance and suggestion?

A. Yes, sir.

Q. The making of the balance cylinder referred to in the No. 2 specification, state whether or not that is an entirely different piece of work from what the specification called for.

A. Well, that is entirely different from what it calls for here, planing the valve and removing the seat, etc.

Q. Now, take No. 5; was that work done as called

(Testimony of L. K. Siversen.)

for in the specification?

A. It was not done as called for here, as far as I can remember.

Q. Now, what is your recollection as to the manner in which the purpose of that was effected, whether it was done in a different way?

A. The H. P. eccentric straps, I don't remember whether they were or were not remetaled, but I do remember that the sheaves were taken off the shaft and turned upon the lathe, and I suppose the straps were rebabbitted too, but that I would not say positively. But the low pressure eccentric strap, as I stated yesterday, I think it had those brass liners put into it, made in a semi-circular form, and pinned on the strap to hold them in position; and the sheaves were also removed and trued up, and the whole thing was fitted up in the shop; straps were fitted to the eccentric sheaves while they were in the shop; necessary shims and everything made for it, and then it was refitted aboard the boat.

Q. How about the top halves being pocketed and babbitted? Do you remember about that?

A. I can't say I remember whether there was any babbitt put in them or not. There was new bolts fitted to the sheaves. [1009—921]

Q. How was this job, the same job, or was it a different job from that which is provided for in the specifications?

A. Well, it was different, inasmuch as it was done in a different manner, a more thorough and expensive manner; as, if the straps had only been rebab-

(Testimony of L. K. Siversen.)

bitted, as is called for here, the straps would have to be just babbitted and put out and reduced; but in this case the sheaves were removed from the shaft and new studs were made for them, and they were clamped together and turned up true.

Q. Were they taken to the shop for that purpose?

A. Certainly. And the sheaves were first bored out and then the liners were fitted to them, and after the liners were fitted and made fast they had to be bored out again.

Q. It was an entirely different job from what the specification called for?

A. That was altogether different, of course. But of course it accomplished the purpose of having more metal in the strap.

Q. Now, look at No. 7. That, I understand, was not done at all. A. No, sir.

Q. In that way. An entirely different job was put on that.

A. Well, there was a patch put on the bed-plate, a bronze patch.

Q. That is an entirely different thing from what the specifications call for?

A. Yes; entirely different from putting a column in, of course.

Q. Now, take up No. 9. Have you examined it?

A. Yes, I have examined it.

Q. In your examination on page 885, this was what occurred:

“Q. Now, turn to No. 9; is it not so that No. 9 was done with the exception that the crank-shaft

(Testimony of L. K. Siversen.)

was not removed to the shop? [1010—922]

A. The work was all done with the exception of the removing of the crank-shaft and the boring of the bearings in place.

Q. That is your answer, is it?

A. But there was additional, other work.

Q. Yes, I understand.

A. But you are not asking about that.

Q. I am not asking about that. It was all done except the removing of the crank-shaft and the boring of the bearings in place? A. Yes, sir."

Now, I will ask you concerning that, whether or not what was done was done in the manner provided for in the specifications?

A. To answer as to the work that was done under the heading 9 of the specification, there is only one way to do it, and that is to dissect it, as there is several pieces of work under No. 9.

Q. All right.

A. "Strip crank-shafts and all reciprocating gear." That was done. "Remove crank-shaft from ship, by cutting bulkhead abaft engine," was not done. "Test shaft in lathe to representative's satisfaction and true up all main bearings in lathe," was not done. "File housings where worn and bed to same, new shells (these will be supplied by ship)"; that was done. The housing was filed up true and the new shells bedded, but where the shells came from I don't know. "After shells are properly bedded they are to be bored out in place in perfect alignment." That was not done in that man-

(Testimony of L. K. Siversen.)

ner. Instead of that the bearings were fitted in place, and a line was run through the bearings and check lines were run down from each cylinder; a circle was scribed on each bearing separately, and all the bearings were taken back to the shop and bored in the machine, and then they were taken back aboard the ship again and replaced. [1011—923]

Mr. McCLANAHAN.—Q. In order to keep the record straight, Mr. Siversen, you mean by “bearings” the shells—the shells of the bearings?

A. The shells.

Mr. FRANK.—Q. Whether or not that would have been necessary had the specifications been adhered to?

Mr. McCLANAHAN.—I object to the question on the ground that it is not specific enough, what was necessary.

Mr. FRANK.—Well, the witness will attend to that, if he understands it.

Mr. McCLANAHAN.—I can’t understand the question on account of its being indefinite, and I therefore object to it on that ground.

Mr. FRANK.—Q. Go on, Mr. Siversen.

A. You mean, if it was necessary to remove the bearings to the shop again?

Q. Yes.

A. The bearings had to be bored out, and whether the bearings were bored out in place or whether they were bored out in the shop, that is a matter that would be left to the judgment of whoever is the

(Testimony of L. K. Siversen.)

authority on the job.

Q. What do you mean by the authority on the job?

A. Well, I mean the authorities of the shop, of course.

Q. Well, go on.

A. But the same purpose was accomplished of boring out the bearings, which, of course, was necessary under all circumstances.

Q. But if it had been bored in place as the specification provides, it would not have been so expensive a job; that is, it would not have cost so much to carry out the job.

Mr. McCLANAHAN.—I object to that as immaterial.

A. That I would not say. I do not think it lessened the cost to remove the bearings to the shop by any means. [1012—924]

Mr. FRANK.—Q. I do not mean it lessened the cost. Did it increase the cost?

A. No, it would not.

Q. Well, go on.

A. "After shells are properly bedded they are to be bored out in place in perfect alignment." I have stated in which manner that was done. "Test lines must be run through cylinders to check the bar before boring each bearing (the size of each bearing to be taken from shaft)." That is covered by the explanation that I made. Test lines were run from the cylinders and down to the center line. "After boring is finished shaft will be scraped and bedded to a

(Testimony of L. K. Siversen.)

perfect bearing and all liners and parting pieces fitted and secured in place"; that was done. The shaft was raised and lowered six times, I think, in order to scrape the bearings to a perfect fit. "A Lloyd's steel shaft gauge must be supplied and marked for each bearing (a sketch will be provided if requested). The gauges will touch shaft at three points showing either vertical or side drift of shaft." Those gauges were made, but not steel gauges. Whether they are of a Lloyd's pattern or not I do not know. They were cast-iron gauges in two pieces.

Q. As to their being as elaborate or more elaborate or less elaborate than Lloyd's steel gauges, what have you to say about that?

A. Well, they are more elaborate and entail more work than any Lloyd's gauge that I have seen heretofore. But I do not mean to say that this was not a Lloyd's gauge, because I do not know.

Q. Go on.

A. "The line shafting will be trued up to crank-shaft and tail-shaft and all spring bearings raised to their proper places." As regarding that item, there was a lot of work done. There was, as I stated yesterday, the thrust-shaft and the [1013—925] line shafting immediately behind the thrust-shaft was so badly corroded on the flanges as to make it impossible to tell when the shaft was in line, and when these flanges are badly corroded you do not get a true bearing between the faces of the two couplings, and it has a tendency also to shear off the

(Testimony of L. K. Siversen.)

coupling bolts. That is two reasons why it was decided to send those shafts to the shop.

Q. By whom? A. And have them faced off.

Q. Decided by whom?

A. Of the two shafts the thrust-shaft was supposed to go to the shop to have the collars trued up.

Q. And the other shaft not?

A. But the other shaft was not supposed to go to the shop, but it was ordered so by Mr. Putzar and Mr. Klitgaard.

Q. What was the result?

A. The thrust-shaft and the other length of shafting as well were faced off on the coupling. This shortened up the whole length of shafting, made the total length of shafting shorter a certain amount, the amount that was faced up; this being the case it pulled the whole shaft from the line tube and right up to the engine-head, and the line shafting from being worn where it rested in the bearings, there was naturally shoulders worn on each section of the shaft, on the place where it rested in the bearings; when this shaft was pulled ahead these shoulders came up into the bearings, with the bearings in the former position, original position; that necessitated shifting the bearings ahead a certain amount, and that necessitated in turn a slotting out of all of the holes of the pedestal on which the spring bearings rested.

Q. Well, now, is that all of that, Mr. Siversen?

A. Well, yes. [1014—926]

Q. Was that extra work that came up by reason of that condition authorized as the other was, by Put-

(Testimony of L. K. Siversen.)

zar and Klitgaard?

A. You mean the extra work of moving the bearings ahead, etc.?

Q. Yes.

A. That work was necessitated by the facing off of the couplings.

Q. Would that be an ordinary result in trueing up a shaft?

A. It would be an ordinary result of facing off a certain amount of the couplings of any old shaft; if the shaft was a new shaft, however, there would be no shoulders on it, and the shaft could slip right through the bearings.

Q. But what I was trying to get at was, would that be an ordinary result of trueing up a shaft, what is comprised in trueing up a shaft, whether that is comprised in trueing up a shaft, or not? What is meant by trueing up a shaft?

A. By trueing up a shaft, as I understand it, is generally where the shaft is not round, or otherwise that the shaft, the center line of which is sprung; but that was not the case with this line shaft; it was the coupling that was corroded on the face.

Q. So that would not be included in the ordinary work of trueing up the shaft but was the result of the special condition of this shaft? A. Yes, sir.

Q. That is what I am trying to get at.

A. "Should spring bearings require remetaling a separate price will be allowed for each"—well, of course, I don't know anything about the price or anything of that sort, but I do know that the spring

(Testimony of L. K. Siversen.)

bearings were remetaled; two spring bearings were first decided to be remetaled and the others were dressed up, and it was decided that they were to go back, and it was later on decided to remetal them [1015—927] all, as there was very little metal left; in fact, the metal was down to the cast iron. Now, where this line shafting rests in the bearing, the shafting and the bearings had worn to corrugations, and when it was decided to remetal the bearings, of course that meant that the bearings would be bored out to the size of the shaft; the bearing being bored out would be straight, would have a straight surface, and the shaft being corrugated could not lay in a straight surface; the shaft had to be filed up straight and trued also; so the shafts were all filed up straight and true where they rested in the bearings.

Q. That was double work that you referred to the other day that you had prepared the bearings to receive the shaft and afterwards they changed their mind about that and had them remetaled?

A. That is only as regards those three bearings, but not as regards the filing of the shaft. Nothing was done to the filing of the shaft before it was decided to remetal the bearings.

Q. But, at any rate, the filing of the shaft would not have been necessary if the extra bearings had not been remetaled?

A. If the bearings had not been remetaled, any of them, no matter whether it was one or all, the shaft would have to be filed where the bearing was remetaled.

(Testimony of L. K. Siversen.)

Q. Where it was remetaled? A. Yes, sir.

Q. Where it was not remetaled, it would not have to be?

A. No. Well, excuse me; that is, that depends upon how much metal was in the bearing and what was decided by the men in charge of that part of the work.

Q. By the men in charge, whom do you mean—the representatives of [1016—928] the ship?

A. Yes. “The ship will be docked and stern-bearing “rewooded while tail-shaft is drawn. Alignment of line shaft to be done after crank and tail jobs are finished”—the first part there, “The ship will be docked and stern-bearing rewooded while tail-shaft is drawn,” that was done, as far as I remember. “Alignment of line shaft to be done after crank and tail jobs are finished.”

Q. The crank-shaft and tail-shaft jobs.

A. Yes. That was also done. “Thrust-shaft to be removed from ship and bolted to crank-shaft while latter is in lathe and collars on thrust-shaft to be trued up.” The thrust-shaft was removed from the ship and the collars were trued up and the faces of the couplings, as I stated before, were also trued up, but they were not bolted to the crank-shaft, as the crank-shaft was not to the shop. “Thrust ring to be refitted after shafting is lined up.” The thrust rings, if I don’t remember wrongly, was all rehabbitted by reason of turning up the collars of the shaft which naturally made the thrust ring too thin; whether or not they were otherwise worn, I don’t

(Testimony of L. K. Siversen.)

remember, but I know they were rebabbitted and fitted to the thrust-shaft, of course.

Q. Well, is that work a part of refitting a thrust ring? How would you refit a thrust ring ordinarily?

A. Well, that is rather difficult to answer, as a thrust ring could be refitted in two ways. You may say that if a thrust ring got hot the metal would be grooved out, and you would say that a thrust ring was refitted if the ring was taken out and scraped up and new oil grooves cut in it and the metal cleared and all dressed up. But you also say that the thrust ring was refitted [1017—929] after being rebabbitted, when you put in new babbitt in it.

Q. But the babbitting is a special work; that would be specified, would it not?

A. It is generally specified to rebabbitt the thrust ring, if that is required.

Mr. McCLANAHAN.—Q. Let me again suggest, to make the record clear, Mr. Siversen, when you speak of thrust rings you mean thrust collars?

A. I mean the thrust shoes, that is the real name for them.

Q. Rings, collars and horseshoes are all the same, aren't they? A. Yes, sir.

Mr. FRANK.—He is taking it as it is in the specifications.

A. Well, those names are general; one person uses one name and another person uses another name; what we most generally use is thrust shoes.

Mr. McCLANAHAN.—Q. That is because they look like a horseshoe?

(Testimony of L. K. Siversen.)

A. Yes, sir. “New wheel to be fitted”—

Mr. FRANK.—Q. (Intg.) One moment before you leave that. How about the stuffing-box and the thrust-box; was anything done with that?

A. Oh, yes; there was new stuffing-boxes ordered to be put in by Mr. Putzar; that is something altogether different from what was there before. In fact, there was nothing on to hold the liquid in place, as it were; the thrust-box contains a certain amount of oil and water, and these stuffing-boxes on the thrust-shaft were ordered put in by Mr. Putzar; and it was a very difficult job as it was a very hard place to work, very close. The patterns for the casting were made after the shaft was down in place; [1018—930] the thrust-box was also refastened, I mean all new bolts made to go down through—I referred to that yesterday. I think that there were all new bolts made to go down through the thrust-box and through the stools to hold the thrust-box in position.

Q. None of which was a part of refitting thrust rings?

A. No. “New wheel to be fitted to the satisfaction of owners representative.” I think they got that wheel from some other shop. I remember the plates and hub came over on a barge, and when they tried this wheel on the shaft the taper was not right, and, if I am not mistaken, the wheel was rebored.

Q. Would that be an ordinary part of the work of fitting a wheel to the shaft, to rebore the wheel?

A. No. It is generally understood that when a

(Testimony of L. K. Siversen.)

wheel is bored, it is supposed to be bored right.

Q. Is that all of No. 9?

A. That concludes it, I think.

Q. I notice, Mr. Siversen, that in the question concerning the balance cylinder counsel has called it a small affair. Do you consider the making of a balance cylinder a small affair?

Mr. McCLANAHAN.—Well, I will say, Mr. Frank, that is in comparison with the low pressure cylinder; it certainly is, as compared with the low pressure cylinder.

A. When I answered, I considered it the same way, that it was a small affair compared with the low pressure.

Mr. McCLANAHAN.—That is the way it was intended.

Mr. FRANK.—Q. It is a large piece of work, is it not?

A. Yes, that is a big piece of work, to make the balance cylinder.

Q. The only difference is the low pressure is very much larger piece of work; the building of a ship would be a larger piece still. [1019—931]

A. There is quite a difference between the balance cylinder and the low pressure cylinder.

Recross-examination.

Mr. McCLANAHAN.—Q. Mr. Siversen, I am impressed with the feeling, from the detailed manner in which you have gone into some of these specifications—

Mr. FRANK.—What do you mean by “feeling”?

(Testimony of L. K. Siversen.)

Mr. McCLANAHAN.—Q. (Contg.) —that you have had your mind refreshed since I examined you yesterday on them; is that so?

A. Why, yesterday, when you examined me you would not allow me to say anything about these different specifications except “yes,” and so on.

Q. Have you had your mind refreshed since yesterday? A. Well, in what manner do you mean?

Q. Well, I mean in any manner.

Mr. FRANK.—Q. Whether you have gone over it and considered it? A. Yes, sir.

Mr. McCLANAHAN.—Q. So since yesterday you have gone over these specifications again more in detail, have you? A. Yes, sir.

Q. In conjunction with Mr. Frank?

A. Yes, sir.

Q. Did he furnish you with any information that refreshed your mind?

A. Mr. Frank, I do not think could furnish me with any information regarding that ship. There may be things recalled to my memory, perhaps, that I did not remember yesterday.

Q. That Mr. Frank recalled to your memory?

A. No, I do not think so. I do not think Mr. Frank has recalled anything.

Q. I do not mean Mr. Frank. I mean matter furnished by him. [1020—932]

A. No. That is just what I mean also. I do not think that there was anything furnished by Mr. Frank that I did not think of yesterday, but I did not say it because you did not ask for it, you did not

(Testimony of L. K. Siversen.)

want me to tell it.

Q. Well, I think you misjudge me there. I did not intentionally keep back anything.

A. Well, when I said—for instance, you asked me, was this work done, I said, yes, but there was more work done also, and you said, “All right, I am not asking about that.”

Q. My point was this, Mr. Siversen. I was inquiring from you whether the work was or was not done stated in the specifications. I admit that there was other work done and I did not want to refer to that at all.

A. Well, but I know you did not ask me if the work was done as it was stated in the specification, and I did not mean to say that it was. When I said “yes” to the several questions I meant that the purpose was accomplished, or not.

Q. Referring to No. 1 of the specifications, though it was not done in the manner called for by the specifications, the manner in which it was done accomplished the same purpose; is that correct?

A. The job may be done, and it may be a first-class job and it may be a temporary job; in order to make this a first-class job it could not be done as called for in the specifications. For instance, the specifications do not state that they were supposed to put corrugated rubber gaskets in the face of the pump; it said they were to be rejoined. We could put 1/16th or 1/8 black rubber in there and it would be a joint, and then [1021—933] we would not need to true up the faces of the pump because this black rubber would

(Testimony of L. K. Siversen.)

accommodate itself to the several uneven parts of the surface.

Q. Don't you know the specifications call for filing?

A. Yes, I know that, but that could not be filed so that it would make a good job with a copper gasket.

Q. Without the copper gasket?

A. With the copper gasket; where you put a copper gasket in between two faces, it has got to be true.

Q. Was the facing filed?

A. No, it was turned in the lathe to make it a better job.

Q. Was that more expensive work?

A. Why, of course; it entailed the removal of the pump from the ship to the shop, and putting in the lathe and facing off. And that is not all the work that was done to the pump either. When the floating top was removed there was pieces of the flanges broken off, the flange that holds the floating top in place; these pieces had to be patched up, patches fitted in there. If I don't remember wrongly, the floating top was shifted around $1/12$ of a turn to a new location made for it, and there was new studs put in there, all new holes.

Q. Isn't that separate work from the specification job? Isn't that additional work? Specification 1 calls for no work on the floating top; isn't that so?

A. The specification does not call for it, no.

Q. I am not asking you about the extra work that was done on the pump. I am trying to confine you to the specification work. Now, Mr. Siversen, you

(Testimony of L. K. Siversen.)

say that the use of copper gaskets increased the cost of the job, and I understood you to say also that this [1022—934] work was authorized by Messrs. Putzar and Klitgaard? A. Yes, sir.

Q. Who dealt with them—you—in making the change in the specifications?

A. Well, I would not say that I dealt with them alone in all cases, but whenever I came across—

Q. Confine yourself to this case, please.

Mr. FRANK.—Let him finish his answer.

A. When I found that we could not make a first-class job in it, I do not remember whether my superior in the shop, or whether I called Mr. Putzar, but I know that at any rate Mr. Putzar and Mr. Klitgaard examined it and it would not be taken to the shop without their consent.

Q. Nor would you take it to the shop without the authority of your superior, would you?

A. If my superior tells me that you do as Mr. So-and-So tells you, whoever he is, I do as he tells me.

Q. Now, you are evading my question.

Mr. FRANK.—I do not think he is trying to evade your question.

Mr. McCLANAHAN.—Q. Would you, Mr. Siversen, increase the cost of that work by sending the pump barrel to the shop without authority from your superior, having the specification before you as you did?

A. Well, I would not send the pump to the shop of my own accord, but I will not say whether it was Mr. Wilhelmson or Mr. Putzar that individually told

(Testimony of L. K. Siversen.)

me to take it at that time, but I know that on a job of that description they were there, and that it would be the common consent or conclusion that it had to be done to make a good job out of it.

Q. You did not know whether this was a contract job or not, did you? A. No. [1023—935]

Q. Assume that it was a contract job, Mr. Siversen. Don't you think that Putzar or Klitgaard, or either or both, first conferred with Mr. Wilhelmson or Mr. Christy before this specification was changed in the way it was changed?

Mr. FRANK.—I object to what this witness thinks. It is a question of fact; whether he did or not, whether the witness thinks he did or not is utterly immaterial.

Mr. McCLANAHAN.—Q. Don't you know that if this was a contract job to be done for so much money there could not be any change in that job without the consent of the United Engineering Works and the Matson Navigation Company?

Mr. FRANK.—I make the same objection, putting a hypothetical question to the witness about what he would know if a certain thing happened, which does not tend to prove what the particular facts of this particular case are.

A. Well, the pump would not go to the shop without somebody's orders, and if it was a contract job, as you say, I would not take the pump to the shop unless somebody ordered me to do it.

Mr. McCLANAHAN.—Q. Somebody from the Matson Navigation Company, or from the United

(Testimony of L. K. Siversen.)

Engineering Works?

A. That depends upon what orders I had from the United Engineering Works, from my superiors.
[1024—936]

Q. That is, if it was a contract job there would be no changes in that without authority from your superior? A. No, sir.

Q. And in each case where there were changes from the specifications you say that Putzar and Klitgard acquiesced in the change? They agreed to them?

Mr. FRANK.—He did not say that.

A. As far as I can remember.

Mr. McCLANAHAN.—Q. Now, turning to No. 2 of the specifications, did not the balance cylinder accomplish the same work, and was it not intended to accomplish the same thing that the work called for by the specifications was intended to accomplish?

Mr. FRANK.—I object to that as utterly immaterial whether it accomplished the same result. The question is whether or not the result was accomplished in the manner agreed on in the specifications if it was an agreement or a contract. It is immaterial that the same result was accomplished in a different manner. The question is whether the work was done in the manner in which the parties had agreed it should be done or not.

A. Will you kindly repeat the question?

Mr. McCLANAHAN.—Read the question, Mr. Reporter.

(The Reporter reads the question.)

(Testimony of L. K. Siversen.)

Mr. FRANK.—I make the further objection, that this witness cannot know and cannot testify to what was intended by the contracting parties themselves.

A. In answer I wish to say that it could not be intended for the same purpose.

Mr. McCLANAHAN.—Q. It could not be intended? A. No, sir. The planing of the valve—
[1025—937]

Q. You have answered my question.

Mr. FRANK.—Finish your answer.

Mr. McCLANAHAN.—Q. Do you want to make a statement in that regard?

A. Yes, sir. I wish to say that the planing of the valve and its seat is altogether different from the placing of a balance cylinder, and will have no bearing on it at all.

Q. Is that all the explanation you want to make to your answer? A. That is all.

Q. Was not the work in No. 4 done as specified, with the exception that instead of reconstructing the high pressure and intermediate pressure shoes new ones were cast and filled with No. 1 Challenge metal, and that the guides were not restayed but new and heavier plates were refitted?

A. Yes, sir, that is right as far as I can remember. The guides, however, were planed off on the back before the new plates were fitted.

Q. Now, turning to No. 5, I understand you don't know, you are not sure of some of the details of that work? A. No, sir.

Q. Turning to No. 7, I will ask you if the sub-

(Testimony of L. K. Siverson.)

stituted work did not accomplish the same thing that would have been accomplished if the specification had been carried out.

Mr. FRANK.—We make the same objection to that. It is immaterial what the result of the work was. The contract has reference, if it be a contract, to the method and mode of performing the work, and not the result to be obtained. It might be that taking out the entire engine and putting in the new engine would accomplish the result herein intended, and there would be a first-class engine in the ship, but we would not be covered by a contract intended to make certain repairs to the engine, although the repairs themselves might make it a good working engine. [1026—938]

Mr. McCLANAHAN.—It is unnecessary to argue your objections.

Mr. FRANK.—I want to do so, so that when the Court comes to see them it will know the ground of my objections because I will not have an opportunity of arguing it orally before the Court.

Mr. McCLANAHAN.—Q. Answer the question, Mr. Siverson.

A. I wish you would read that question.

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. Well, as far as I understand it the column that was intended to reinforce the bedplates was cracked, and the patch must necessarily have been intended for the same purpose. Whether or not the patch or the column is the best reinforcing I would not say.

(Testimony of L. K. Siversen.)

Q. Mr. Siversen, do you remember the length of the "Hilonian" crank-shaft?

A. No, sir, I cannot say that I do. I think it was around 18 feet.

Q. Do you remember the length of the "Hilonian" thrust-shaft?

A. No, sir; about 18 to 20 feet I guess.

Q. The crank-shaft and the thrust-shaft under the original specifications were to be put into the lathe together, were they not, in the shop?

A. Yes, sir, that is what it says here.

Q. What would be the swing of the lathe necessary to take in the crank-shaft?

A. I don't remember the throw of the "Hilonian" crank-shaft. That means the radius from the center of one pin to the extreme part of the circle that it will cover. You necessarily would have to know the distance from the center of the pin to describe the circle that is described by the whole shaft.

Q. If she had a 54-inch stroke, what would it be?
[1027—939]

A. Again, you have to know the thickness of the web, and to know the diameter of the pin. Then you would have to measure up the radius that is described when you set the three cranks at 120 degrees apart. That is a thing that cannot be guessed at. This has got to be laid out on paper.

Q. Do you know anything about the lathes in the shop? A. I do.

Q. Did you have a lathe that would take in the crank-shaft and thrust-shaft together?

(Testimony of L. K. Siversen.)

A. No, sir. That would not have reference to the throw.

Q. That would have reference to the length?

A. That would have reference to the length.

Q. You spoke of the corrugation of the line-shaft requiring the shaft to be shortened?

A. You are mistaken about that.

Q. Well, what was it?

A. The corrugations are on the shaft where it rests in the bearings.

Q. But where the shaft is joined in the coupling it had to be faced off? A. Yes, sir, faced off.

Q. How much was it faced off?

A. I don't remember, but I think it was a total of either half or $\frac{5}{8}$ of an inch.

Q. A total? A. Yes, sir.

Q. For all the couplings?

A. I think so; it is something like that; I am not positive.

Q. If that is so how much would each bearing have to be moved?

A. It would have to be moved the same amount.

Q. I do not understand that this was all taken off one coupling?

A. No, sir, it was taken off three couplings.

Q. That is the aggregate of the amount taken off of three couplings?

A. Yes, sir. But there is only one bearing before the shaft has been shortened, the total amount. All the [1028—940] other four bearings entails the whole shortening of the shaft.

(Testimony of L. K. Siverson.)

Q. How many holes had to be slotted?

A. Four bearings. There would be four holes in each. I think there were four holes in each bearing—four or six.

Q. That would be 16 holes?

A. That would be 16 holes of course.

Mr. FRANK.—Q. Did you say four or six?

A. It was four, I think.

Mr. McCLANAHAN.—That is all.

Further Redirect Examination

Mr. FRANK.—Q. Mr. Siverson, you answered off-hand about the lathe in the shop, as to whether or not it was large enough to take the crank-shaft and the thrust-shaft together?

Mr. McCLANAHAN.—I object to the question as improper when you say he answered offhand. He answered the question as he did all the other questions in his examination.

Mr. FRANK.—Q. I presume Mr. Adamson would know better than you, would he not, whether or not the lathe would be large enough to take the shafts in?

Mr. McCLANAHAN.—I object to the question as suggestive, leading and immaterial.

A. I don't think, as far as my mechanical knowledge goes, that any shop foreman or shop superintendent would think of putting the thrust-shaft and crank-shaft together in the lathe because there would be no earthly necessity for it.

Mr. FRANK.—Q. That would not be done in any shop?

(Testimony of L. K. Siversen.)

A. That would not be done in any shop. It is ridiculous.

Q. So far as the capacity of the lathe itself is concerned, that was the question, if it was attempted to be done, whether the lathe in that shop had sufficient capacity to take it. [1029—941]

A. It would not be attempted to turn the crank-shaft and the thrust-shaft together in the lathe. With the crank-shaft, it was intended it should be trued up and tried for being sprung or otherwise not true. There is a lathe sufficiently large enough to do that. The end of the coupling of the crank-shaft would necessarily be faced off. The end of the coupling of the thrust-shaft would also be faced off the same as any new coupling is faced off, and there would be no necessity or attempt of any mechanic to bolt the two shafts together in the lathe.

Q. In other words, that is not a proper mechanical job? A. No, sir.

Q. And the specification would be calling for a ridiculous thing; is that it? A. Yes, sir.

Q. You were asked about specification No. 7, whether or not they served the same purpose, that is, the column and the patch on the housing; whether they would serve the same purpose or not, you do know that they are entirely different work, are they not? A. Different work; yes.

Q. That is, in the performance of the work they bear no relation of one to the other? A. No, sir.

Q. You have been asked about the length of the crank-shaft, and the size of the "Hilonian"?

(Testimony of L. K. Siverson.)

Mr. McCLANAHAN.—I did not ask him a question about the size of the “Hilonian.”

Mr. FRANK.—You did in the original examination.

Q. You remember that, don't you, Mr. Siverson?

A. Yes, sir.

Q. How does the “Hilonian” compare in size with the ships in which you have served and which you have mentioned here?

Mr. McCLANAHAN.—I object to the question as irrelevant and immaterial and improper redirect examination. [1030—942]

A. The “Hilonian” is nowhere near it, not even half the size of some of the ships on which I have served.

Mr. FRANK.—Q. There is nothing extraordinary about the size of the “Hilonian,” is there?

A. Why, no, of course not. The “Hilonian” is not considered a very large ship. I presume the “Hilonian” would only carry one-third the cargo of the “Texan.”

Q. Counsel has also in his recross-examination made the suggestion that you have been testifying here with feeling to-day. Have you any feeling in this matter one way or the other?

Mr. McCLANAHAN.—I object to that. I have not made any such intimation or suggestion, or intended to.

Mr. FRANK.—Then you withdraw it?

Mr. McCLANAHAN.—I withdraw nothing because I have not anything to withdraw in that line.

(Testimony of L. K. Siverson.)

Mr. FRANK.—Very well.

Q. Have you any ill-feeling in this matter, Mr. Siverson?

Mr. McCLANAHAN.—That is objected to as improper examination. It is not suggested he has any ill-feeling.

A. In which manner?

Mr. FRANK.—If it is not suggested that he has any ill-feeling it is all right, let it go at that, but you did.

Mr. McCLANAHAN.—I beg your pardon. I said I had a feeling from his evidence that he had refreshed his memory.

Mr. FRANK.—You said, “You have testified with such feeling”—

Mr. McCLANAHAN.—I beg your pardon.

Mr. FRANK.—Very well, if I have mistaken you it is all right. If I have not mistaken you the record is corrected. [1031—943]

Mr. McCLANAHAN.—Yes.

Mr. FRANK.—Q. Now, you have been asked concerning these changes, and the question has been put to you whether Putzar and Klitgard agreed to the changes. I wish to know whether you mean to testify that they agreed to them, or whether they ordered them; in other words, were the changes made at their instigation or at your instigation?

A. The changes were made at their instigation.

Q. And when you said in answer to the question whether they agreed to it, you meant that they ordered it?

(Testimony of L. K. Siversen.)

A. I wish to make a statement regarding that.

Q. Very well.

A. And that is, that one man don't know everything, and that two mechanics are better than one mechanic in some instances. If Mr. Wilhelmson, who is the superintendent engineer of the United Engineering Works, and Mr. Putzar and Mr. Klitgard, who were chief engineers, come together and discuss a certain way of doing a mechanical job it may be that Mr. Putzar's suggestion is the best one, and it may be that Mr. Wilhelmson's suggestion is the best one; however, the man not being prejudiced and stuck on his own opinion, if he sees that another man is right he will agree to it. I wish to say that if Mr. Wilhelmson made the suggestion that such was the best manner in which it may be done, and that if Mr. Putzar saw that that was the best manner, that Mr. Putzar would let it go that way. On the other hand, if Mr. Putzar held to his own opinion that his way was the best, it was done accordingly.

Q. But you don't understand what I mean. Mr. Wilhelmson nor you would make any changes from the specifications unless Mr. Putzar and Mr. Klitgard would order it done in the way that it was finally agreed upon after consultation? [1032—944]

A. No, sir; of course not.

Q. On redirect examination you were asked about No. 5, and it was asked of you that you were not positive about the changes made in No. 5. Did you mean to say you were not positive about all of your testimony concerning No. 5, or was there some partic-

(Testimony of L. K. Siversen.)

ular part of it that you were not positive about?

A. I am not positive whether the high pressure eccentric straps were rebabbitted.

Q. Is that all?

A. And I am not positive if there was babbitts put into the brass liners of the low pressure, but I know that the shives were turned up, and I know that there were new bolts fitted in the low-pressure shives.

Q. The rest of your testimony regarding it you were positive of, and those are matters that you were not positive of? A. Yes, sir.

Further Recross-examination.

Mr. McCLANAHAN.—Q. Do you remember your evidence on your direct examination where you said that the thrust-shaft would be put in the lathe and faced off? A. Yes, sir.

Q. You remember that, do you? A. Yes, sir.

Q. If that was done, Mr. Siversen, that would necessitate the moving of the spring bearings, would it not, when the thrust was removed to the ship again?

A. Excuse me, but I don't quite understand you.

Q. If the thrust-shaft was faced off in the lathe in the shop that would shorten the shaft, would it not?

A. Yes, sir.

Q. That shortening of the shaft would necessitate the moving of the spring bearings, would it not?

A. Yes, sir. [1033—945]

(Testimony of L. K. Siversen.)

Further Redirect Examination.

Mr. FRANK.—Q. That is, the particular spring bearing that is under the thrust-shaft?

A. Yes, sir. But there is a difference in facing off the thrust-shaft collar or facing off the couplings of the thrust-shaft. Facing the thrust-collars will not shorten the shaft.

Q. There are other spring bearings are there not besides those under the thrust-shaft?

A. Yes, sir.

Q. They run up clear through the shaft-alley?

A. The facing of the thrust-shaft collars has nothing to do with the spring bearings.

(An adjournment was here taken until Tuesday, September 19th, 1911, at 9:30 A. M.) [1034—946]

Tuesday, September 19th, 1911.

[**Testimony of Henry Nelson, for Libelant.**]

HENRY NELSON, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Nelson, what is your business? A. Machinist.

Q. In the employ of the United Engineering Works? A. Yes, sir.

Q. How long have you been so employed?

A. Since January 1st, 1902.

Q. Were you employed on the steamer “Hilonian”? A. Yes, sir.

Q. When she was being repaired by the United Engineering Works in August and September, 1909, I think it was? A. Yes, sir, I was.

Q. In what capacity? A. As night foreman.

Q. On board of the ship?

(Testimony of Henry Nelson.)

A. On board of the ship.

Q. The work that you performed on board of the ship, how was it turned over to you?

A. I received all my orders through the day foreman.

Q. Who was that? A. Mr. Siverson.

Q. State somewhat more in detail how that was done.

A. Do you wish to know what was done on the job?

Q. No. I want you to begin with and state how the work was turned over to you.

A. When I took charge of the job I received orders from the officials of the United Engineering Works to receive all my orders through Mr. Siverson. I was there say an hour to an hour and a half before the work began at night, and went over with Mr. Siverson the work he had [1035—947] laid out for me to perform during the night.

Q. How about the work he had performed during the day?

A. The work he had performed during the day he went over and explained how he had progressed, and if there was any work he had not finished he explained to me how far it was, to go ahead with it. In the morning, when my night's work was done I waited for him and explained what part of the work I had performed, if any trouble had occurred during the night in any part of the work and I found exactly what it should be I reported it to him; that is, I reported what progress I had made during the night.

Q. You say the work was laid out for you that

(Testimony of Henry Nelson.)

was to be performed during the night?

A. Yes, sir.

Q. Just state exactly what you mean by that.

A. You must understand that there is certain parts of the work at night that cannot be performed at night as well as it can in the daytime, for instance, such as handling the heavy part of the machinery with the shear-legs, it cannot be done at night. Another reason is that a man cannot work in a large space, that is, what I mean is he cannot work in a whole engine-room such as handling heavy machinery. He has to concentrate his work in one small space on account of light and other conditions that we encounter at night such as dangers on account of the ship having no gratings, floor-plates being up and one thing and another. There was a great deal of the work such as filing the crank-pins and disassembling the engines done at night, taking out coupling-bolts, all such work was done by me at night. In working in the shaft-alley there were riveters driving out rivets. A man cannot work [1036—948] around a riveter when he is driving out rivets for fear of his eyes being knocked out. You cannot use the cannon in the daytime very well because after you explode two or three charges a man cannot enter until that smoke is cleared away. There are several objectionable features to working at nights.

Q. Then the particular piece of work that you were to finish up, as I understand, was laid out by you to be performed at night?

(Testimony of Henry Nelson.)

A. Yes, sir; it was laid out for me by the day foreman.

Q. Your work was confined, then, to a particular piece of work during the night and to a particular part of the ship? A. Yes, sir.

Q. Now, with respect to the men that were under you, I presume you laid out the work for the men?

A. I laid out the work for the men to their best advantage, that is, if I had a certain particular job and I had a first-class mechanic, he was the man who received that job.

Q. Did you oversee them?

A. I was there right along and oversee them.

Q. To see that they did the work properly?

A. Yes, sir; I was personally responsible for their work.

Q. How about the length of time that the men would work in the night-time on a single job, whether it was continuous, or whether they were passing from one job to another?

A. My work was for the most continuous. It was under all one continuous job. There were a few instances where they passed from one job to another, but I don't remember just how many. I don't think there were very many.

Q. I show you now, Mr. Nelson, a series of stock order cards [1037—949] which are identified by a letter and number as follows:

A6606, A6605, A6602, A6469, A6480, A6449, A6404, A6608, A6609, A6615, A6617, A6618, A6619, A6620, A6622, A6626, A6628, A6629, A6631, A6632, A6635,

(Testimony of Henry Nelson.)

A6636, A6637, A6639, A6642, A6644, A6648, A6649, A6653, B6808, B6809, A62, A1205, A1219, A1255, A1254, A1293, A2317, A2404, A2479, A2717, A2726, A3240, and A3241, and ask you whether those are orders for material ordered by you and received and used on board of the "Hilonian" on that occasion. Just go through them.

Mr. McCLANAHAN.—I object to the question on the ground that it is immaterial.

A. I will vouch for those stock order cards that are made out by me and signed with my name, that the material was ordered and used aboard the ship under my supervision.

Mr. FRANK.—Q. Are all these cards signed by you? A. They are.

Q. I notice one here, "A3240" which bears the signature of "Per Nelson"; is that your signature also?

A. No, sir, that is not mine. I can explain that card if I am asked to.

Q. Certainly.

A. The idea of that card being signed "Roberts per Nelson" was for this reason, that when that man was doing that babbitting that night he needed that Challenge metal, that that order calls for, to perform that work. There was no one in the shop at that time to give him an order for that. He came to me and asked me to go to the storekeeper and order the storekeeper to give him the material. The storekeeper's signature is on the card, which shows that the material was delivered to him on my orders.

(Testimony of Henry Nelson.)

Q. Who made out this?

A. Mr. Roberts must have made that out.

Q. This "Per Nelson"? A. Yes, sir.

Q. You went up and saw that he got it?

A. I went up and saw that he got it. I went up and ordered the storekeeper to give it to him in order to let the man perform the job.

Q. Was that man Chandler?

A. That man was Chandler. He is the man that does all the babbitting.

Q. The rest of them are all in your handwriting?

A. Yes, they are.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked collectively "Nelson Stock Cards No. 1."

Mr. McCLANAHAN.—We object to the offer on the ground that the cards are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent, and ask that the objection apply to each card.

(The cards are marked "Nelson Stock Cards No. 1.")

Mr. FRANK.—Q. I now show you, Mr. Nelson, a series of stock cards, marked respectively, "Roberts Stock Cards No. 1 to No. 21, inclusive," and ask you to go over those in detail and select those items from them which you know were used on board of the "Hilonian" on the job in question.

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Those are the numbers that I have written

(Testimony of Henry Nelson.)

down, the ones that I have selected (handing).

Mr. FRANK.—They are “Roberts Stock Card No. 2, Roberts Stock Card No. 5, Roberts Stock Card No. 8, and Roberts Stock Card No. 19.”

Q. I notice, Mr. Nelson, that “Roberts Stock Card No. 2” is a combination [1039—951] Indian oil-stone? A. Yes, sir.

Q. What is that used for?

A. After the crank-pins in the main journals were filed up they required to be gone over with an oil-stone in order to further prepare them for the bearings.

Q. What became of those oil-stones?

A. They were used so much on the crank-pins and the journals that they were practically of no use after they were finished.

Mr. McCLANAHAN.—I ask that the answer be stricken out as not responsive to the question.

Mr. FRANK.—Q. By that I assume you mean they were practically used?

Mr. McCLANAHAN.—I object to the question as suggestive and leading.

A. Yes, sir.

Mr. FRANK.—I have somewhat lost track of my offers in evidence, and so that I may not forget it again I want it considered that all of the stock cards upon which I have examined any of the witnesses heretofore are offered in evidence, and each time that I examine another witness on any of them they are reoffered in connection with the testimony of such witness.

(Testimony of Henry Nelson.)

Mr. McCLANAHAN.—That would be all right, Mr. Frank, except that it seems to me all of these cards should bear an identifying mark. If there are any that have been used by you that have not an identifying mark they should be identified in some way.

Mr. FRANK.—They all have an identifying mark.

Mr. McCLANAHAN.—Then they have all been introduced in evidence. [1040—952]

Mr. FRANK.—By all having an identifying mark I do not mean on the back of them. Some of them are only identified by the serial numbers on the face. I do not see that that makes any difference in that regard, if that be so understood. It is a mere technical proposition, that is all.

Mr. McCLANAHAN.—I do not remember that you have not introduced any cards.

Mr. FRANK.—I do not either, but I want to make sure of it, so that will be the understanding, if you have no objection.

Mr. McCLANAHAN.—We object to the reoffer on the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent, and ask that the objection apply to each of the reoffered cards.

Mr. FRANK.—In order to save folios, perhaps we had better stipulate that that objection may apply as we go along without being repeated.

Mr. McCLANAHAN.—That is all right.

Mr. FRANK.—We have an enormous record here of objections and reoffers and one thing and another.

(Testimony of Henry Nelson.)

Q. I hand you a series of cards fastened together and collectively marked, "Speed Stock Order Cards No. 1," and ask you to go over those cards in the same manner that you did the former cards, and state what portion of the material you can now identify as having gone on board of the "Hilonian."

A. Those cards that I have enumerated there are identified by me as for material that has gone on the job.

Q. Material that you know has gone on the job?

A. Yes, sir.

Q. In identifying these cards generally we do not understand you to mean that the other material did not go on?

A. No, sir, there is no card that I have looked at there that [1041—953] I would say has not gone on the job, but those that I have enumerated specially I remember have gone on the job. Some of it I have personally handled and the others I know.

Q. And any cards that I shall give you hereafter, if there is any change or variation from that condition that you have just stated I should like to have you state the exception. A. All right.

Q. If you do not state the exception we will understand it is all subject to what you have just said. You refer to the red pencil marks up on the right-hand upper corner? A. Yes, sir.

Q. No. 2, however, is not in red but in black pencil? A. Yes, sir.

Q. The ones you refer to are No. 2, No. 29, No. 16, No. 15 and No. 19? A. Yes, sir.

(Testimony of Henry Nelson.)

Q. I now show you a series of cards marked "Roberts Stock Cards No. 22" and ask you to do the same thing with them and refer to them by the serial numbers.

A. (After examination.) A2462.

Q. Now, I present to you "Roberts Stock Cards No. 23" for the same purpose.

A. (After examination.) There are none of them that I can personally say I handled on the job.
[1042—954]

Q. I now present you a series of cards, most of which contain a signature per watchman Roberts, beginning with A2266 and ending with A3286, which I desire you to go through in the same manner.

A. (After examination.) A2395.

Q. I notice that is 45 pounds of challenge metal; was that taken on board of the ship?

A. No, sir; it was used in the machine shop on the eccentric straps.

Q. On the eccentric straps.

A. Yes. I will further say that most of that babbitting was done at night.

Q. Was this given to Chandler in the same manner that you have testified to concerning other challenge metal? A. Yes, sir.

Mr. FRANK.—I ask to have them marked "Roberts Stock Cards No. 24, Watchman," and also that all of these cards be considered in evidence under the stipulation just entered into, subject to the objection.

(The cards are marked "Roberts Stock Card No. 24, Watchman.")

(Testimony of Henry Nelson.)

Q. I now show you a series of cards marked "Stephen Cronin Stock Card No. 1," and ask you to perform the same service with respect to that.

A. A2494 and A6448.

Q. I now show you a series of cards marked "Fred Boyd Stock Cards" and ask you to perform the same service.

A. There is none of them that I can say I have seen personally used.

Q. I now show you "Wilhelmsen Stock Cards No. 1," and ask you to perform the same service.

A. None.

Q. I show you "S. M. Robinson Stock Card No. 1," and ask you to perform the same service.

A. C3924 and A1769. [1043—955]

Q. I now show you "S. M. Robinson Stock Cards No. 2," and ask you to perform the same service.

A. None.

Cross-examination.

Mr. McCLANAHAN.—Q. Are you still in the employ of the United Engineering Works, Mr. Nelson?

A. Yes, sir.

Q. With reference to your own cards that have been introduced in evidence, how did you get the job numbers, Mr. Nelson?

A. It is customary when we start a job to receive all the numbers that are included in that job. In this case I received them from the day foreman.

Q. In writing? A. In writing, sir.

Q. What did you receive—just the numbers?

A. I cannot recall—I received just the numbers.

(Testimony of Henry Nelson.)

Q. Just the numbers? A. Yes, sir.

Q. Nothing else? A. Nothing else.

Q. So if the numbers were 400, 600 and 900, you received just those numbers?

A. I received those numbers and there was an explanation furnished with each number, of what it was for.

Q. That is what I asked you, if anything else was received by you.

A. That includes an explanation, of course, of the work that was to be performed under that number. The numbers themselves would be of no use to me if I did not know what they would be for.

Q. I call your attention to your card A6404, and ask you if you can explain the change on that card of the number?

A. Possibly. The only way I can explain that is possibly it was a wrong number when it was made out, and I changed it at the time I made it out.

Q. You made it originally, didn't you?

A. I did, sir. [1044—956]

Q. And you think you possibly put the wrong number on it when you originally made it out?

A. Yes, and I could have changed it at that time.

Q. At what time?

A. At the time that I made it out. It is very easy to make a mistake and notice it before you would send the man for the material.

Q. I call your attention to card A6628, can you from an examination of that card tell me what the particular specification was that was attached to that

(Testimony of Henry Nelson.)

number when it was handed to you?

A. I do not understand what you mean by the specification.

Q. Well, let me make myself clear. I asked you where you got the job numbers and you said they were given to you by the day foreman and to them was attached an explanation of the work attaching to each number? A. Yes, sir.

Q. Now, do you understand my question, Mr. Nelson?

A. You wish me to explain to you when I made out these if this was a right number?

Q. No. I want to know if you can now by looking at that card tell me what the specification was that was attached to the number 5295 when it was handed to you?

A. No, sir, I cannot. I have worked on many jobs since that time, of the same kind as this.

Q. I do not think you understand me now. Where was the material used, for what purpose was it used, the material on that card?

A. It was used on the patch that was placed on the condenser. The card calls for that.

Q. Would 5295 cover the patch on the condenser?

A. It would, sir, if it called for it in the list that I had [1045—957] received from the day foreman.

Q. So that on this list of numbers 5295 appeared and under the specification of work to be done on that was a patch on the condenser? A. Yes, sir.

Q. I will ask you the same question with reference to your card A6632; the job number is 5325 and the

(Testimony of Henry Nelson.)

material was used on main shafting. Would the main shafting appear as one of the specifications under No. 5325?

A. It would, sir. Any way, in explanation I will say that according to what I originally received as to the work to be done under that there was considerable changes made. In reference to that patch it was originally intended to put a column in there, but the patch took the place of the column, consequently the work was done under the same number.

Q. You remember that, do you?

A. I do, sir, distinctly.

Q. So that 5295, when it was originally handed you, called for a column? A. Yes, sir.

Q. And this patch was a change later on?

A. Yes, sir.

Q. To take the place of the column?

A. Yes, sir.

Q. You don't know anything about the change, who made it?

A. I do not know, sir; it was not under my jurisdiction.

Q. I hand you your card A6637 and ask you if you can tell me where the 8 bolts and nuts called for by the card there were used.

A. Yes. They were used on the circulating engine.

Q. The new one that was brought in?

A. There was—I can't remember whether the new circulating pump was put aboard at that time or not, but those bolts are bolts that are similarly used to

(Testimony of Henry Nelson.)

connect up the copper pipe which was done at that time. Whether the circulator was put in at that time that she had the overhauling [1046—958] or before, I don't remember. But the copper pipe, I do remember was connected up.

Q. But you are sure that those nuts were used on the circulating pump?

A. Those bolts and nuts were used on that circulating pump.

Q. But whether it had been installed in the vessel at that time you don't know?

A. I don't remember whether it was in there at that time.

Q. Or came in later? A. Or before that.

Q. Or before that? A. Or before that.

Q. But it was the new circulating pump?

A. It was the new circulating pump that was being connected up when this work was going on.

Q. You remember that, do you? A. I do, sir.

Q. Those nuts were necessary, were they?

A. Yes. It calls for bolts there if I am not mistaken.

Q. They were necessary?

A. They were absolutely necessary to perform the job.

Q. To perform the job connected with the circulating pump?

A. Connected with the circulating pump.

Q. I hand you your card A62, Mr. Nelson, and ask you if the material on that was also used in connection with the new circulating pump.

(Testimony of Henry Nelson.)

A. It must have been used on the circulating pump if they were signed by my name, and it indicates there where it was used on—I can't just remember at the present time exactly where they were used, but if I had wrote on that stock order card that they were used on the circulator, they were used there at that time.

Q. I notice quite a number of your cards show a change in the [1047—959] job number. Is your explanation the same for each of them?

A. Yes. That change could have been made by me personally at the time that the card was made out.

Q. Mr. Nelson, referring to your identification of "Roberts Stock Card No. 5" of his exhibit 1 to 21, I see that there is a hand-saw on it. A. Yes.

Q. What became of the hand-saw after it was used?

A. In reference to that hand-saw I will say that I did not intend to identify the hand-saw. There is another part of that order that I wish to identify. The hand-saw I have no recollection of.

Q. You simply identified the five pounds of black blasting powder?

A. Yes, that is what I wish to identify.

Q. Referring to "Speed Stock Cards" I ask you who put the red pencil marking on these cards, Mr. Nelson.

A. I cannot explain that part of it. They are probably done in the office by way of identification

(Testimony of Henry Nelson.)

or probably done afterwards. It is not for me to explain.

Q. Calling your attention to card A2462 of "Roberts Stock Cards Exhibit No. 22," one piece 3x14x14 teakwood. Can you tell the board measurement of that piece? A. I cannot, sir.

Q. Can't you figure it out?

A. No, sir. I have not studied the lumber measure.

(A recess was here taken until 2 P. M.) [1048—960]

AFTERNOON SESSION.

HENRY NELSON, redirect examination:

Mr. FRANK.—Q. You were asked about this card "A6628"—"patch on the condenser"; was that the bronze patch?

A. Yes, sir, it was a bronze patch cast especially to fit that place in order to reinforce the crack.

Q. You were asked about whether it was to take the place of the column.

Mr. McCLANAHAN.—I object to the question on the ground that it is a misstatement of the evidence. The witness testified it took the place of the column without my asking about it.

Mr. FRANK.—Very well.

Q. You understand what I am after, Mr. Nelson?

A. Yes, sir.

Q. As a piece of mechanical work is anything in the nature of that patch like the setting up of a column?

(Testimony of Henry Nelson.)

A. It is entirely different, and it cannot be classed as the same job at all. It is an entirely different job in all respects.

Q. Now, you were asked about "A6637," whether or not the material specified in that card was used on the circulating engine. Just where was that used?

A. Will you let me see the card by way of explanation?

Q. "6637" (handing).

A. This tag calls for $8\frac{3}{4}$ by $2\frac{3}{4}$ bolts with hexagons used on the circulating engine. This could be used on any part of the circulating engine. It could be used on the plate that bolted on the air pump or the old valve face that was taken off. It could be used for that. [1049—961] There was a valve face taken off and a new casting made to take its place, to take the discharge for the new circulator. It could be used on that. It could be used on bolting the copper or the brace that was used on the circulator.

Q. On your direct examination you were asked if that had to do with a copper pipe, the installation of a copper pipe, or rather the bolting of the copper pipe. Did that have anything to do with setting up the circulating pump?

A. It was an entirely different job. It included installing the circulator. As far as setting up the circulator I would not class it the same.

Q. I show you a paper marked Respondent's Siver-sen Exhibit "A," and call your attention to paragraph 11, and ask you whether or not installing of

(Testimony of Henry Nelson.)

the copper pipe or fitting of the copper pipe is in anywise described in that paragraph 11.

Mr. McCLANAHAN.—I object to the question upon the ground that it is not proper redirect examination.

A. The copper pipe is entirely different from what it calls for there in No. 11; that is an entirely different piece of work.

Mr. FRANK.—Q. Now, with reference to these cards that you have gone over, what, if anything, can you say as to the material therein specified being necessary for the work that you knew to have been done on board of that ship?

Mr. McCLANAHAN.—I object to the question upon the ground that it is not proper redirect examination.

A. All the cards that I have looked at, including those I have picked out and those I have not picked out that I know personally were handled by me or my men on the job, I will say that the material is of such a nature that it would be used on a job of that kind, for experience has taught me that that [1050—962] is a class of material that is used on all jobs of that description. There is nothing there that would not have gone into that ship to be used in the work that was going on at that time.

Mr. FRANK.—Q. With regard to the babbitting work, Mr. Nelson, do you recall what particular parts of the machinery came on board of the ship rebabbitted?

(Testimony of Henry Nelson.)

Mr. McCLANAHAN.—I object to that as improper redirect examination.

A. There were five spring journals that were sent to the shop to be rebabbitted, and came back bored and finished. There were four complete sets of main journal brasses. That includes eight separate pieces. There were high and low pressure shoes. There were 5 or 6 thrust-collars. There was also the high and low pressure eccentric straps and some other small work that I cannot just remember that was done, but I cannot recall it just at this time.

Mr. FRANK.—Q. Do you know what was done with respect to the remetalling of the eccentric straps?

Mr. McCLANAHAN.—I object to the question as improper redirect examination.

A. The low-pressure eccentric straps were taken to the shop and they were first bored out; then there were semi-circular Tobin bronze or phosphorus bronze of liners put in. They were afterwards pocketed and bored out after the low-pressure shives had been turned in in the mill and fitted to the same. I don't recall whether the high pressure shives were turned. I do recall that they were first remetalled and then bored and fitted aboard the ship after the shives were in place. Whether the high pressure eccentrics were turned I don't remember.

Mr. FRANK.—Q. They were fitted, however, with brass liners, were they?

A. They were fitted with brass liners, pocketed and filled with metal. [1051—963]

(Testimony of Henry Nelson.)

Recross-examination.

Mr. McCLANAHAN.—Q. Do you remember your testimony this morning on my cross-examination, relative to your card “A6628,” the card referring to the bronze patch? A. Yes, sir.

Q. Do you remember your testimony this morning with reference to the card “A6637” and “A62,” with reference to the circulating pump? A. Yes, sir.

Q. Have you discussed your evidence on those two matters since then with anyone?

A. I have looked over certain evidence and recalled it to my mind since then by thinking over the matter.

Q. You have discussed the matter with Mr. Frank, have you?

A. I have, and some of the other men that worked with me on the job.

Q. The material called for by the last two cards “A62” and “A6637” was material that was necessary for the installation of that circulating pump, was it not?

A. That is a very hard question for me to answer. Part of that installation of that circulating pump included putting on this cast-iron piece to take the discharge from the new circulator. I have already stated that we installed some copper pipe that it does not call for in those specifications which, when I made out the tag at that time included the whole circulating pump. I did not specify any particular part of it. It could be the instalment; it could be the cast-iron pipe that was put on there to take the dis-

(Testimony of Henry Nelson.)

charge; it could be the copper pipe. It is something I do not remember at this time because them bolts are of a size that is used very often. We have used a great many of them and I have used many of them since that job. [1052—964]

Q. What was it that you discovered that has made your memory cloudy on that matter? Did you not this morning testify that those bolts were used in the installation of the pump?

A. Yes, sir. I have since remembered that we put on a piece where the old valve-chamber was to take the opening of this new circulator.

Q. What was it that has refreshed your memory to that extent?

A. For the very simple reason that I made an examination of that ship last week, and it is one of the things that is recalled to my mind in thinking it over.

Q. I say, what was it since your examination this morning that has refreshed your mind?

A. In thinking over what I done, for instance. You must remember it is two years ago since I worked on that job. In thinking over what I performed on that job it came to my mind those bolts could have been used in this cast-iron piece that was put on.

Q. Was there anything to assist you in coming to that conclusion?

A. You mean know about me in regard to that ship at all?

Q. Answer my question. Did anything assist you in coming to that conclusion?

(Testimony of Henry Nelson.)

A. What do you mean by “anything”?

Q. Any person?

A. Certainly. I have spoken over what was performed on the job.

Q. Who was the person?

A. I have looked over some of the testimony.

Q. What testimony?

A. I have looked over some of the testimony of Mr. Siversen.

Q. Did any person assist you other than Mr. Siversen’s testimony? A. No, sir.

Q. You say you made an examination of this work on the ship [1053—965] in the last week?

A. I did, I have a perfect right to do so.

Q. Of the “Hilonian”? A. Yes, sir.

Q. When did you make an examination?

A. Last week.

Q. Did you go on the ship?

A. I made a personal examination of her.

Q. Of what?

A. Of the steamship “Hilonian” and of the work as far as I knew that was performed there.

Q. What day was it last week?

Mr. FRANK.—Q. What materiality is that?

A. I do not consider that is—

Mr. FRANK.—I will attend to that, Mr. Nelson, but it is immaterial.

Mr. McCLANAHAN.—Q. What day was it last week?

A. If I am allowed to answer the question I will answer it.

(Testimony of Henry Nelson.)

Mr. FRANK.—Q. You are allowed to answer it.

A. It was last Friday afternoon about one hour before she sailed.

Mr. McCLANAHAN.—Q. What examination did you make? A. I went down and looked at her.

Q. Looked at what?

A. Through the engine-room.

Q. Went through the engine-room?

A. Yes, sir, from the shaft-alley to the boiler-room, and some of the work to it that I did not know exactly at that time was recalled to my mind by looking at her.

Q. You could still distinguish the work, could you?

A. I could. If the ship was here I could point it out to you.

Q. All the work that was done?

A. All the work that was done under my supervision at night, and I think most of it that was done in the daytime.

Q. That examination was just as fresh in your mind when I [1054—966] examined you this morning as it was this afternoon, was it not?

Mr. FRANK.—I submit there is absolutely no difference in his testimony this afternoon from what it was this morning on the questions you examined him on.

Mr. McCLANAHAN.—Q. Answer the question.

A. You are asking me why I changed my testimony; is that the idea?

Mr. FRANK.—Read the question.

(Testimony of Henry Nelson.)

Mr. McCLANAHAN.—Q. Did you change your testimony?

A. Is that what you are asking me, if I did change my testimony?

Q. That was not my question. My question was this—read the question, Mr. Reporter.

(The Reporter reads the question.)

A. I think I have a perfect right to refresh my mind at any time I wish. I do not suppose anyone has any right to dispute that fact. If I wish to make some changes in my testimony at any time as it progresses, I think I have a perfect right to do so.

Q. Will you please answer my question?

Mr. FRANK.—Just read the question to him.

(The Reporter reads the question.)

A. The idea of your question is this: you are trying to ask me if I refreshed my memory since this morning.

Mr. McCLANAHAN.—Q. Will you please answer the question that I asked you?

A. I don't understand what you mean by refreshing my memory or if I understood the question the same this morning.

Q. I will ask you the question again, then, Mr. Nelson.

A. All right, do so. Please make it very plain, so that I can understand it. [1055—967]

Q. I want to know whether your mind had not been just as refreshed by your examination of the work on the "Hilonian" last Friday, this forenoon when I examined you, as it was this afternoon when

(Testimony of Henry Nelson.)

Mr. Frank examined you? A. Yes, sir, it was.

Q. You did not need Mr. Siverson's evidence to refresh your memory?

A. No, sir, I did not actually need it, no, I did not.

Q. Yet you say an examination of Siverson's evidence did refresh your memory? A. It did.

Q. In what particular did it refresh your memory?

A. Mr. Siverson's testimony did not refresh my memory as much as it did the specifications.

Q. As much as your memory was refreshed by the specifications?

A. The specifications in that special regard refreshed my memory.

Q. I hand you the specifications that you refer to, Respondent Siverson's Exhibit "A," and ask you what part of the specifications refreshed your memory (handing). A. No. 11.

Q. No. 11 refreshed your memory as to what?

A. As to the disposal of them bolts that you asked me about this morning.

Q. What was it that your memory was lacking in before you examined it?

A. That is, I lacked in that I did not remember at that time that we had put this plate on to take the opening of the new circulating pump.

Q. Did you not see that plate when you examined the "Hilonian" Friday last?

A. I did. I made a special note of it, but I did not recall that to my mind this morning when I answered your question. [1056—968]

Q. Had you ever seen these specifications before?

(Testimony of Henry Nelson.)

A. I had not. I saw them the other day; that is, I read them over, but at the time the job was performed I had nothing to do with them whatever.

Q. How, then, not having seen these before, when you were working on the job, do they refresh your recollection?

A. Because I was in constant touch with the work at all times and I could recognize the work.

Q. You recognize that these are specifications of work performed on the "Hilonian"?

A. They were similar.

Q. Similar to this?

A. Yes, sir. The work performed was not up in many instances to what it called for in the specifications, but it was similar.

Q. Do you not recognize No. 7 of the specifications as the work originally called for that the bronze patch took the place of?

A. I don't know what it originally called for in No. 7. I had no specifications, and as I have stated before in my testimony, I received my orders from Mr. Siversen. What they originally were, I don't know. By reading his I remember that there was no column put in the ship, but there was a patch to take the place of this column.

Q. Don't you remember testifying this morning, volunteering the information that this patch was to take the place of a column?

A. Yes, sir.

Q. You do remember that?

A. I do exactly.

Q. And performed the same service as the column?

A. Yes, sir, exactly.

(Testimony of Henry Nelson.)

Q. Look at No. 5 on the specifications. You have testified in regard to that item of the specifications on your redirect examination?

A. Yes, sir. [1057—969]

Q. When did you examine No. 5 of the specifications?

A. When I examined No. 5 of the specifications?

Q. When did you? Since I examined you this morning?

A. No, sir; I have not examined this part of it. I read the specifications over, which I have a perfect right to do at any time, but as far as I say I was not working to these specifications at all.

Further Redirect Examination.

Mr. FRANK.—Q. Mr. Nelson, did you read Siversen's testimony since you testified this morning?

A. No, sir; I have not; not since this morning.

Q. You mean at some previous time you read his testimony? A. Yes, sir.

Q. Before you were called?

A. Before I was called.

Q. In your discussion—you say you discussed the matter with me since your examination—in your discussion with me did I offer any suggestion to you at all?

A. No, sir, Mr. Frank. You are not in a position to suggest anything in regard to that.

Q. I asked you questions, however, didn't I?

A. Yes, you have asked me questions in order to enlighten yourself as it were in regard to the job.

Q. With regard to the specifications, or something

(Testimony of Henry Nelson.)

similar to these specifications that are called Respondent Siversen Exhibit "A," I understand you went over those also at some time previous to being called? A. Yes, sir.

Further Recross-examination.

Mr. McCLANAHAN.—Q. Mr. Nelson, on my recross-examination of you, you stated that the matter which had refreshed your memory between Mr. Frank's examination this afternoon and my cross-examination this morning was your reading of Siversen's [1058—970] evidence. Now, I am led to believe—

Mr. FRANK.—He did not say that.

Mr. McCLANAHAN.—Q. Now, I am led to understand you did not read Mr. Siversen's evidence during the noon hour?

A. If that is what you mean I will say that I did not read Mr. Siversen's evidence during the noon hour.

Q. Then I will have to ask you again: what was it that refreshed your memory between my examination this morning and Mr. Frank's examination this afternoon? Was it simply and solely the talk with Mr. Frank?

Mr. FRANK.—I submit there is no change in his testimony between this morning and this afternoon that called for any refreshment; no change of any kind. It is an assumption on the part of the counsel that there is such a change or that a refreshment was necessary.

Mr. McCLANAHAN.—Q. Answer my question.

(Testimony of Henry Nelson.)

Read the question to him, Mr. Reporter, so that he can understand it.

(The Reporter reads the question.)

A. It was purely and simply in talking over the different parts of the work that I had performed in relation to the circulating-pump, that I had performed on board of the ship. Mr. Frank is not in a position to suggest anything with regard to that job.

Q. I have not intimated that Mr. Frank suggested anything. I simply intimated that you had a conversation with Mr. Frank that enabled you to refresh your memory.

A. I did have a conversation with Mr. Frank.

Q. Was that the sole cause for refreshing your memory? A. No, sir, it was not.

Q. What else?

A. Any man can refresh his memory by thinking [1059—971] over a certain piece of work that he has performed at any time previous to the time he was asked.

Q. Now, Mr. Nelson, when I examined you, you had read Mr. Siversen's evidence? A. Yes, sir.

Q. You had examined the specifications?

A. Yes, sir.

Q. And you had visited the ship? A. Yes, sir.

Q. And between my examination which closed at 12 o'clock and Mr. Frank's examination at 2 o'clock you had simply had a talk with Mr. Frank?

A. I did have a talk with Mr. Frank, yes.

Q. Was that not the sole means of refreshing your memory?

(Testimony of Henry Nelson.)

A. Then you mean to say and insinuate that I cannot think over a job of my own accord and bring that to my own mind, any part of that work that was performed there. Mr. Frank is in no position to refresh my memory in regard to that job, he never being aboard the ship in his life and was never there when the job was performed. I don't understand how he could refresh my memory in regard to that.

Further Redirect Examination.

Mr. FRANK.—Q. Mr. Nelson, in what respect, if you know—if you do not know perhaps counsel might indicate to you—is your testimony different this afternoon from what it was this morning? What difference is there? What change did you make if any?

A. There is only one difference if there is any change at all, I cannot understand what it is, with the exception that when I testified this morning I testified that them bolts could have been used on the copper pipe. I stated this afternoon they could have been used on this flange or opening to take the circulating discharge from the new pump. They could have been used on that. [1060—972]

Q. Did I make any suggestion about that at all.

A. No, sir, you did not.

Q. Did I say anything about it?

A. Not that I can remember, that you suggested anything about it. They could be used in them two places, and as I said I have used many bolts since then of the same kind.

Q. Is there any other particular in which you have

(Testimony of Henry Nelson.)

changed your testimony that you know of?

A. Not that I know of; no.

Q. Or any manner in which you have refreshed it, except as you have stated, thinking the matter over?

A. No, sir.

Mr. FRANK.—I think myself this is an attempt to make something out of nothing. For the life of me I cannot see what counsel is driving at.

[**Testimony of Robert Campbell, for Libelant.**]

ROBERT CAMPBELL, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Campbell, you are working at the United Engineering Works? A. Yes, sir.

Q. And were in August and September, 1909?

A. Yes, sir.

Q. In what capacity? A. Watchman.

Q. As watchman was it ever your duty to pass out stores from the storeroom? A. Yes, sir.

Q. When? A. At night-time.

Q. At night-time?

A. Yes, sir, after the storekeeper had left.

Q. Now, I show you a series of cards marked on the back "Roberts Stock Cards No. 24, Watchman," and ask you whether or not those are cards made out by you for stores issued from the storeroom at the times indicated in the cards, and for work to be done under the numbers indicated on the cards. [1061—973]

Mr. McCLANAHAN.—I object to the question as being immaterial, and on the further ground that the witness has not qualified to answer the question.

(Testimony of Robert Campbell.)

Mr. FRANK.—Why has he not qualified?

Mr. McCLANAHAN.—I do not know how a watchman can identify the numbers on those cards.

Mr. FRANK.—You will find out then.

Q. You have been over these before?

A. Yes, sir.

Q. Now, give me those only that you did.

A. Just the ones that I did. All right. Here is one that I made out, “A2315”; here is another one that I made out, “A2336”; here is another one of mine, “A2349”; here is another one, “A2351”; here is another one, “A2369”; here is another one, “A2721”; here is another one, “A2724”; here is another one, “A3243”; here is another one, “A3286.”

Q. Now, go back Mr. Campbell and look at “A2266” again. A. That is mine too.

Q. That is yours? A. Yes, sir, “A2266.”

Q. Now, I will pass you another one. Look at “A2395.” A. Yes, sir, that is mine.

Q. Now, let me give you another. Look at “A2402.” A. Yes, sir, that is mine.

Q. Look at “A3242.”

A. No, sir, that is not mine.

Q. All right. Now, look at “Roberts Exhibit No. 23 Stock Cards,” “A6403.”

A. Yes, sir, that is mine.

Q. And in the same exhibit “A6405.”

A. Yes, sir, that is mine too.

Q. In “Roberts Exhibit Stock Cards No. 22,” look at “A6402.” A. Yes, sir that is mine.

Q. Now, with respect to these several cards, Mr.

(Testimony of Robert Campbell.)

Campbell, [1062—974] where would you get the details from which to make them out?

A. They would come with a list of material that they wanted, either bring a list of it, maybe they would send a helper, or maybe one of the mechanics would come and get it. I would have to give it according to their order. If there was any doubt about the order there is a list hangs right on that desk there.

Q. When you say about the order, do you mean the job number? A. The job number; yes.

Q. What would you do with respect to the list that you say hangs there?

A. If there was any doubt about the job numbers I would take the list; if there was not any doubt about any job numbers I would not. The job numbers were all right there hanging on the desk so that we could refer to them at any time.

Q. Was there any other work going on at night-time there during this time that you recall except on this steamer? A. No, sir, no other work going on.

Q. No other work going on? A. No, sir.

Q. And so far as the different job numbers on the steamer is concerned what, if any, inquiry would you make of the men to ascertain if they had the right job number?

A. I would ask them what it was to be used on quite often and I got accustomed to it, so that I almost knew from the length of time that the boat was in there what materials should go on, and what certain men were working on certain work.

(Testimony of Robert Campbell.)

Q. How long have you been working as watchman in the United Engineering Works?

A. About four years and a half.

Q. And during that time has this always been part of your duties? A. Yes, sir. [1063—975]

Cross-examination.

Mr. McCLANAHAN.—Q. What are your other duties as watchman, Mr. Campbell?

A. What are my other duties?

Q. Yes.

A. Well, I have to ring the fire-alarm clocks and take the lines of vessels that may come in, travel around the yard.

Q. Is your work all night work? A. Yes, sir.

Q. Have you given us all your duties?

A. I sometimes make up the shop-cards in the office, in the daytime.

Q. The time-cards, you mean? A. Yes, sir.

Q. Who for? Who do you make those up for?

A. For the timekeepers; to have them for them ready in the morning.

Q. I don't know exactly what you mean by making them up.

A. I separate the yellow from the white. There is an inside and outside card used by the men working there on different work. The yellow cards are kept in one pile and the white in another. Then they are all separated into hundreds, the highest number is put at the bottom, starting at 500 and so on down until you get to 100.

Q. That is what you mean by making them up?

(Testimony of Robert Campbell.)

A. Yes, sir; so that they can take them right along.

Q. Any other duties?

A. No, sir; that is about all, only sometimes I have to wait on the toolroom a little bit, give them out some tools once in a while out of the toolroom.

Q. I do not quite understand where you get the job numbers that you place on these yellow stock cards. Are they given to you by the men who want the material? Does a man come and say, "I want such and such material for such and such job number"? [1064—976]

A. Sometimes he does. If he does not know the number, if he has not got an order for it, as I told this gentleman, we have got a list there with the job numbers on it and I refer right to that and take the job number from that.

Q. How do you know the job numbers to which certain material belongs?

A. He tells me who he is working with, what he is on.

Q. He tells you the class of work he is doing?

A. Yes, sir. He tells me what the material is to be used on. As a rule, they know the number.

Q. And you take their statement of what the number is and put it on the card? A. Yes, sir.

Q. That is the rule you say? A. Yes, sir.

Q. You do not follow the man down to the ship?

A. No, sir.

Q. And see that he uses the material that you give him? A. No, sir.

Q. Can anyone in the employ of the United En-

(Testimony of Robert Campbell.)

gineering Works get material from you under the circumstances as you have stated?

A. Yes, sir, they can, if they bring me an order or if the number of the job is there on the list.

Q. What do you mean by “bringing the order”—simply a written paper?

A. If the foreman on the job writes out an order, as they often do—often the foreman on the job carries a book, an order-book, and he writes out an order.

Q. One of these yellow slips? A. Yes, sir.

Q. Suppose that the man has not a yellow slip or order. You would give him material if he asked for it? A. Yes, sir.

Q. And these cards that you have identified are cards that represent material given out where the man has not an order? A. Yes, sir. [1065—977]

Q. These are written out in your hand, are they not, Mr. Campbell? A. Yes, sir.

Q. The foreman, Mr. Roberts, signs them the next morning, does he?

A. Yes. Mr. Roberts is the storekeeper.

Q. I mean storekeeper; I said foreman.

Redirect Examination.

Mr. FRANK.—Q. Before he signs them, I presume you satisfy him of the correctness of them.

Mr. McCLANAHAN.—I object to that as suggestive and leading.

Mr. FRANK.—Q. Go ahead.

A. No, I don't. I do not see him in the morning. I am gone home before he goes in the morning.

(Testimony of Robert Campbell.)

Q. When you say that any man can come and get it from you you don't mean that any stranger can come to you and get it? A. No.

Mr. McCLANAHAN.—That was not my question.

Mr. FRANK.—I do not care what your question was. It was the inference.

Mr. McCLANAHAN.—He did not say that.

Mr. FRANK.—What did he say, Mr. McClanahan?

Mr. McCLANAHAN.—My question was, could any one in the employ of the United Engineering Works under the circumstances that he has stated come and get the material, and he said yes.

Mr. FRANK.—Q. Well, do you know the men upon the job, as a rule, in the night-time?

A. As a rule, yes, I know them. Being there so long I would know them pretty near all.

Q. You would know what they were doing?

A. Yes.

Mr. McCLANAHAN.—Q. Mr. Campbell, where would you leave these cards when you leave in the morning? [1066—978]

A. Well, there is a book there something like a check-book in the storeroom. It is a book, well, about the size of those material cards there, about this length, with a stub on it, and I would just make out the order in here and fill out the stub and turn over another leaf, and when I filled that out, turn over another one, just as many of them as I required, and leave them right in the book for Mr. Roberts. If I had occasion to tear out one I would put it in a

(Testimony of Robert Campbell.)

box that is at the desk there, where, in case any of the foremen sent up an order for material, we put the order in this box that is for that purpose.

Mr. FRANK.—Q. I understand you to say these are all in your own handwriting. A. Yes.

[Testimony of James Lewis Chandler, for Libellant.]

JAMES LEWIS CHANDLER, called for the *petitioner*, sworn.

Mr. FRANK.—Q. Mr. Chandler, you are in the employ of the United Engineering Works?

A. Yes, sir.

Q. And have been for some time?

A. Five years this fall.

Q. Five years? A. This November.

Q. What is your occupation? A. Machinist.

Q. What particular work have you been employed on over there?

A. I have been doing the babbitting mostly, and a good deal of the sheet metal work and other parts as I am ordered.

Q. In August and September, 1909, do you remember doing work for the "Hilonian"?

A. Yes, about that time; I know it was a long time ago, two years about.

Q. I will show you a stock card, being part of "Nelson's Stock Card Exhibit No. 1," being A3240, and ask you to look at that, [1067—979] and state whether or not you used the material indicated on that card. A. On the eccentric straps.

Q. Did you get the babbitt metal yourself?

(Testimony of James Lewis Chandler.)

A. I ordered it; I did not go and get it. One of my helpers.

Q. It would come to you? A. Yes.

Q. And you would use it? A. Yes, sir.

Q. Do you have any recollection about this particular card? A. No, I have not.

Q. When you order it, how would you order it with reference to quantity?

A. I would tell the man that I sent for it to get that amount.

Q. That is, so many pounds of it? A. Yes, sir.

Q. And when it came to you how would you know whether you were getting the quantity that you had ordered?

A. Well, it is generally, the babbitt we used on that, came in little ingots of three pounds, about, nearly three pounds to the ingot.

Q. Then you would know by the number of ingots exactly how much babbitt metal you got? A. Yes.

Q. Well, when you sent for a certain amount of material do you know of any occasion in which you did not get what you asked for? A. No, sir.

Q. Challenge metal is a babbitt metal, isn't it?

A. Yes, it is a friction metal.

Q. That is the kind of metal you used? A. Yes.

Q. Did you work on that job at night-time?

A. Sometime, yes; I can't remember how much.

Q. With reference to the job numbers on your orders for babbitt, would you send the job numbers in yourself? [1068—980]

A. Yes, I would send the job number. I would

(Testimony of James Lewis Chandler.)

get the number from the foreman or assistant.

Q. And when you made your orders—

A. I would tell the helper, one of my men, to get the material, the metal, and charge it to such a number.

Q. Such a job number?

A. Such a job number; to go to the foreman and he would issue the order.

Q. That is, you always, whenever you ordered babbitt metal, gave the job number on which it was to be used?

A. Yes. I could not get it without that.

Q. And when you received it you applied it to the job corresponding to that number; is that it?

A. Yes; that is, as the number was given to me.

Q. Now, have you any recollection as to about how much babbitting metal you used on that particular job? I mean on the "Hilonian" job generally.

A. Do you mean on the whole job?

Q. On the whole job.

A. Yes, I have. It was nearly a ton and a quarter, as I remember. I remember it because I know it was the biggest job that I ever did of that kind.

Q. Well, how was it impressed on your memory?

A. Because it was such a big job, that I remember it; that is all. Because I had used so much babbitt.

Q. Was there anybody else, Mr. Chandler, besides you engaged on this work of babbitting during that period?

A. Yes; there was another mechanic with me one night.

(Testimony of James Lewis Chandler.)

Q. Well, I do not mean with you. I mean in control of it. In other words, you were the man that did the babbitting?

A. I had charge of that; yes.

Q. That is what I mean. A. Yes. [1069—981]

Q. There was nobody else in charge of any babbitting but you, was there?

A. Not on that job; no.

Q. And all the orders for babbitting metal were issued by you? A. By me; yes.

Q. On what other pieces belonging to the "Hilonian" did you use babbitt besides the eccentric straps? A. Besides the straps?

Q. Yes.

A. I did all of the main bearings and caps; all of the spring bearings; the crosshead slippers or shoes; thrust-collars. There might have been a few others that I cannot just recall, but those were the principal ones.

Q. Those were the principal ones? A. Yes.

Q. The parts that you worked upon, what, if anything, can you say with reference to them having been apportioned to the machinery of the "Hilonian," whether it belonged to the "Hilonian" or not; that is what I mean.

A. Well, it belonged to the "Hilonian," the numbers that were given to me.

Q. Well, the parts themselves, were they, as a rule, new or old parts?

A. Well, the main bearings were new, bronzed, tinned and babbitted; they were new.

(Testimony of James Lewis Chandler.)

Q. Well, the rest of the material, the rest of the parts of the machinery, whether new or old?

A. Old, as I remember it. The thrust-collars, I do not know. It seems to me that she got new thrust-collars; I am not positive.

Mr. McCLANAHAN.—No cross-examination.

(An adjournment was here taken until to-morrow, Wednesday, September 20th, at 10 A. M.) [1070—982]

Wednesday, September 20th, 1911.

[**Testimony of James Robert Christy, for Libelant.**]

JAMES ROBERT CHRISTY, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Christy, you are connected with the United Engineering Works?

A. I am.

Q. In what capacity? A. Manager.

Q. Do you know Captain Saunders of the Matson Navigation Company? A. Yes, sir, I do.

Q. Known him for some time? A. Yes, sir.

Q. Have you done work for the Matson Navigation Company for some years previous to this work on the “Hilonian” that is now in question?

A. I have.

Q. In what capacity have you dealt with Captain Saunders on those previous occasions?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. As port captain.

Mr. FRANK.—Q. With respect to his having or-

(Testimony of James Robert Christy.)

dered work done for the Matson Navigation Company that was accepted by the company during that term. What can you say as to that, whether he has or not?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. He has been regarded by me as their representative, as I have taken his orders and done work under his orders.

Mr. FRANK.—Q. And the work has been accepted and paid for?

A. Always been accepted and satisfactory.

Q. On the occasion of the "Hilonian" coming over to the works for the purposes of the work that is here in question, did you have any conversation with Captain Saunders with respect to [1071—983] the authority of Klitgard and Putzar upon this job?

A. I did.

Q. What was it?

A. Upon the arrival of the ship at our yard I asked Captain Saunders, "Who is to have charge of this work?" Captain Saunders replied, "Mr. Klitgard and Mr. Putzar. Mr. Putzar will be an adviser, and what Mr. Putzar advises we will do."

Q. Do you remember the occasion when the vessel was put upon the dock over there? A. I do.

Q. What was the purpose of putting her on the dock originally?

A. Her tail-shaft was to be drawn, and her stern-bearing lined.

Q. After she got on the dock what if anything oc-

(Testimony of James Robert Christy.)

curred to detain her on the dock?

A. Upon the completion of this work it was discovered by the Matson representatives, that there was some additional work required to her rudder, and the ship was detained on the dock until they reached a decision what would be done with this work, and it was decided by their representatives, to go on with this work, and the ship naturally must be held on the dock to do this work.

Q. What was the nature of that work?

A. The rudder, bushings and gudgeons were in bad condition. It was decided to lift the rudder and reline the gudgeons and pintles. At the same time they were detained in cleaning out the inner bottom. They have found to make such repairs as they wished on the inner bottom it was necessary to remove the accumulation of asphaltum out of this inner bottom, and steam-pipes were led from the dock and holes cut in the bottom of the ship to boil out this asphaltum and get it out of her tanks. There was considerable accumulation of asphaltum in the bottom [1072—984] of her tanks, and it was necessary for it to be removed before the work inside could be completed. That also occupied time on the dock.

Q. Outside of the time actually employed in doing this extra work, I understand she was delayed during the time that they were consulting, to know whether or not they could do it; is that it?

A. Yes, sir; they held the ship there while they were discussing the advisability or the necessity of effecting these repairs, and after reaching a con-

(Testimony of James Robert Christy.)

clusion the work was then carried on and done.

Q. By "they," who do you mean?

A. By the Matson's representatives.

Cross-examination.

Mr. McCLANAHAN.—Q. I understand that you have stated that it was necessary to dock the ship for the purpose of drawing the tail-shaft and re-wooding the liner of the stern-frame; is that correct?

A. I have stated it was necessary to dock the ship to remove the tail-shaft and reline the stern-bearing.

Q. Necessary because of what?

A. The stern-bearing had become worn and allowed the shaft to sag on its after end.

Q. How did you know that?

A. By the sound of the shaft when it was running. That would determine that point.

Q. How did you know it?

A. By the orders from the Matson Company that this work was necessary to be done.

Q. What shape did that order take? What form did it take?

A. To dock the ship and reline the stern-bearing.

Q. I hand you Respondent Siversen Exhibit "A"; is that not the specification for the doing of that work? A. I could not tell you. [1073—985]

Q. Look at it first, please.

Mr. FRANK.—Q. What do you mean "you could not tell"?

Mr. McCLANAHAN.—Just a moment, Mr.

(Testimony of James Robert Christy.)

Frank; I am cross-examining the witness.

Mr. FRANK.—You are asking him to examine a paper. I have a perfect right to examine him on the question of his knowledge concerning the paper; he cannot refresh his memory about something he does not know anything about.

Mr. McCLANAHAN.—I am not asking him to refresh his memory. I am asking if that is not the paper for the order to do that work.

Mr. FRANK.—Q. Have you ever seen that paper before?

Mr. McCLANAHAN.—I object to Mr. Frank interrupting my cross-examination.

Mr. FRANK.—Q. Answer the question.

A. Not to my knowledge; this particular paper I have never seen.

Q. Or a similar one of which that is a copy?

Mr. McCLANAHAN.—I still object to Mr. Frank interrupting my cross-examination.

A. I have seen a specification, but I do not know that this is a copy of it.

Mr. FRANK.—I object to the examination of the witness on the paper in question.

Mr. McCLANAHAN.—Q. Now, answer my question, Mr. Christy, please.

A. I have not been able to find anything in here so far as I have read that bears on the question at point. It may be in here but there is a great deal of it.

Q. Please read it.

A. I am endeavoring to. There is a mention in

(Testimony of James Robert Christy.)

here of lining the tail-shaft, rewooding it, it is [1074—986] termed here. Is that an answer? I read a portion here that refers to that particular.

Q. What about the tail-shaft being drawn? That would necessitate the drawing of the tail-shaft?

A. Yes, sir.

Q. Answer my question. A. In what way?

Q. My question was, is not that paper a copy of the order under which the work was done?

A. It is not a copy of the work that was done on the ship; no.

Q. Is it a copy of the order for the work?

A. This specification does not call or refer to the work that was done on the after-end of that ship regarding her rudder and her pintles.

Q. Will you please answer my question which refers solely to the tail-shaft being drawn, and the rewooding of the bearing? Is that not the order which you referred to coming from the Matson Navigation Company for the doing of that work?

A. This specification states that the tail-shaft shall be drawn. If this is an order from the Matson Navigation Company to draw her tail-shaft that could cover that particular item of drawing her tail-shaft.

Q. I use the word "order" in the sense of "warrant"; is that not the warrant for your doing the work, that paper which you are examining?

A. I should not consider it so; no.

Q. Do you find anything on that paper with reference to the docking of the "Hilonian" for the purpose of cleaning and painting?

(Testimony of James Robert Christy.)

A. It says, "The ship will be docked and stern-bearing rewooded while tail-shaft is drawn." You will understand in connection with that, to draw her tail-shaft is one [1075—987] thing, to paint the ship is another. The docking and painting of the ship would require one day's docking.

Q. Mr. Christy, when the "Hilonian" was first brought to the shop or works of the United Engineering Works, did you not then know that the "Hilonian" was going to be docked?

A. I knew that the "Hilonian" would be docked.

Q. How did you know it?

A. Because she was to be cleaned and painted.

Q. How did you know that?

A. I had discussed the matter with the representatives of the Matson Navigation Company.

Q. And what did this discussion of the matter lead to?

A. It led to docking and painting the ship; also drawing her tail-shaft.

Q. Did this discussion of the matter not lead to the entering into of a contract for that purpose?

A. Not to my knowledge.

Q. Don't you know that when the "Hilonian" went to your works that she went there under a contract to do certain repairs including the work which you have testified to, namely, the drawing of the tail-shaft, the rewooding of the bearing and painting and docking of the ship?

Mr. FRANK.—I object to that; that is calling for the witness to testify as to a conclusion of law, as to

(Testimony of James Robert Christy.)

what is a contract and what is not a contract.

Mr. McCLANAHAN.—Q. Answer the question, please, Mr. Christy.

A. Am I expected to answer that question?

Mr. FRANK.—We have not got any Court here to decide it, so under those circumstances I presume you will have to do the best you can subject to my objection. [1076—988]

Mr. McCLANAHAN.—Mr. Reporter, read the question to Mr. Christy so that he can understand it thoroughly.

(The Reporter reads the question.)

A. I can answer that in this way: that when the “Hilonian” went to the yard of the United Engineering Works, the Matson Company had contemplated making certain repairs to their ship and they had outlined that in the form of a specification, what they had contemplated doing. As this work progressed it was found that some of this work had to be different from the original plan. Among that work that was not different was the cleaning of the ship’s bottom and drawing of her tail-shaft; and to cite some of the additional work that it was found necessary to do I would call attention to the fact that while the ship was in the dock additional work was found on her bottom, her rudder, and after a discussion with the Matson people they decided to hold the ship on the dock until they reached a conclusion whether to do this work or not. They finally decided and ordered this work done.

Q. Now, will you please answer my question?

(Testimony of James Robert Christy.)

A. Is that not an answer to your question?

Q. It is not, sir. Were you not under contract with the Matson Navigation Company at the time that the "Hilonian" first went to your yards to do certain repairs on that ship?

Mr. FRANK.—Now, I object to this not only on the ground that it is calling for a conclusion of law of the witness, but also that he has fully answered it by stating the facts concerning it, if there was such a thing as that, and the Court will determine whether or not any contract existed between the parties.
[1077—989]

Mr. McCLANAHAN.—Q. Answer the question.

A. Am I compelled to further answer this question, to go into more details, or what is wanted? I think I have covered the ground fully in what I have stated.

Q. Please answer the question.

Mr. FRANK.—Q. If you have answered the question, Mr. Christy, in the best way you know how, that, of course, is all that can be expected of you; it is for you to determine.

The WITNESS.—I consider that I have given an answer to the question.

Mr. McCLANAHAN.—Q. You consider that you have answered yes or no to the question as to whether you were under a contract to perform certain work on the "Hilonian" when she first went there?

Mr. FRANK.—If it comes down to that, I think I shall have to instruct the witness that he need not answer that question yes or no, or in the form it is

(Testimony of James Robert Christy.)

put unless so instructed to do by the Court. The proper manner to examine the witness on the question is to ask what was done and what was said by the different parties, and the Court will determine whether there was a contract or no contract. Every piece of work may be a contract in one sense or another.

Mr. McCLANAHAN.—I object to your enlarging the record by your arguments. I do not object to your making your objections, of course, but to argue the objection is enlarging the record, and unnecessary.

Mr. FRANK.—I think your interposition enlarged the record. I have a perfect right to make my objection so that it will be complete, full and intelligible. [1078—990]

Mr. McCLANAHAN.—Q. Mr. Christy, I do not want to be technical in asking you this question; perhaps I had better eliminate from it the words yes or no, and ask you if you consider you have answered my question as to whether or not there was a contract between you and the Matson people to do work on the ship “Hilonian” when she first went to your dock.

A. I consider my answer is an answer to your question.

Q. Let me ask you another question, then. Were you not, Mr. Christy, under a written contract to do certain work on the “Hilonian” when she first went to your yard?

Mr. FRANK.—I object to that as asking for a con-

(Testimony of James Robert Christy.)

clusion of the witness, and instruct the witness he need not answer the question in that form unless ordered to do so by the Court. If there was a written contract, it should be produced, and it will speak for itself.

Mr. McCLANAHAN.—You have instructed the witness not to answer?

Mr. FRANK.—Just read the instruction, Mr. Reporter. That is what I have done.

(The Reporter reads from his notes.)

Mr. McCLANAHAN.—Q. Mr. Christy, do you decline to answer?

A. I shall follow the advice of Mr. Frank.

Q. You, Mr. Christy, are one of the owners of the United Engineering Works, are you not?

A. I am.

Q. Do you not know, Mr. Christy, that your concern bid on certain repair work to be done on the “Hilonian”? Answer that question, please.

Mr. FRANK.—If they did, produce the bid. The bid is the best evidence, and I object to the question.

Mr. McCLANAHAN.—Q. Answer the question, Mr. Christy. [1079—991]

A. (Addressing Mr. Frank.) Do I understand by that that I am not to answer any question?

Mr. FRANK.—No, I do not instruct you that.

A. I know that the United Engineering Works submitted figures for doing certain work on the steamer “Hilonian.”

Q. Who is Mr. H. Gray?

A. Mr. H. P. Gray is Secretary.

(Testimony of James Robert Christy.)

Q. I hand you a letter dated July 27th, 1909, addressed to the Matson Navigation Company and signed "United Engineering Works, per H. P. Gray," and ask you if that is not the written bid that you referred to for work to be done on the "Hilonian."

A. I see a note on here saying, "Rejected see bid Aug. 2nd, '09." Evidently from that I should judge there have been other bids.

Q. That, however, is authentic as a bid, is it not?

A. That is Mr. Gray's signature.

Q. Did you not know of that bid at the time it was made? A. I did not.

Q. You did not?

A. No, sir. Mr. Gray often submits figuring without my knowing anything about it.

Mr. McCLANAHAN.—We offer the letter in evidence and ask that it be marked Respondent's Exhibit Christy "A."

(The letter is marked Repondent's Exhibit Christy "A.")

The WITNESS.—That is Mr. Gray's signature all right. He signed it.

Mr. McCLANAHAN.—Q. You say that is Mr. Gray's signature. That is your letterhead too, is it not?

A. Yes, sir. I am on the other side of the bay most of the time at the shipyard. Mr. Gray is in our city office.

Mr. McCLANAHAN.—I will read this letter in evidence.

(Testimony of James Robert Christy.)

“San Francisco, Cal., July 27, 1909.

Matson Navigation Co.,

Gentlemen,— [1080—992]

Repairs to Str. ‘Hilonian.’

We hereby respectfully submit a figure of Eleven Thousand Nine Hundred Ninety-nine (\$1199.00) Dollars the repairs to the above Steamer, all to be in stricly Accordance with the specifications and further we guarantee to finish the work therein specified in twenty-five Calender days from the date of delivery of vessel at our yard.

Respectfully submitted,

UNITED ENGINEERING WORKS,

per H. P. GRAY.”

And in pencil underneath the closing of the letter is the following: “Rejected see bid Aug. 2nd, '09.”

Mr. FRANK.—Q. Do you know in whose handwriting the lead pencil is in there, Mr. Christy? (Addressing counsel.) Perhaps you know, Mr. McClanahan?

Mr. McCLANAHAN.—No, I do not.

Mr. FRANK.—It comes from your client, so it is certainly not ours.

A. It is not in anybody’s hand, that I know.

Mr. FRANK.—Of course that portion of it cannot be read in evidence unless it is proved.

Mr. McCLANAHAN.—I shall prove that later on.

Q. I hand you, now, a letter written on your letter-head, dated August 2, 1909, addressed to the Matson Navigation Company, and signed “United Engineering Works, Per H. P. Gray, Sect.” and ask you if

(Testimony of James Robert Christy.)

that is not a bid for the repair work on the steamer "Hilonian" made by your company.

Mr. FRANK.—I object to that. The paper speaks for itself for what it is. The witness may testify as to whether that is executed by his company or something of that sort, but his construction of what it is is something for the Court.

A. I can only identify this as a letter from the United Engineering [1081—993] Works, signed by Mr. Gray.

Q. Signed by Mr. Gray, who had authority to sign it? A. Mr. Gray is secretary of the company.

Q. He had authority to sign it?

A. Mr. Gray has authority that goes with the secretary.

Q. Did he have authority to sign that letter?

A. He probably had no particular authority conferred on him in regard to this letter, but he is secretary of the company and as such has a right to sign the papers that come from our office.

Q. Has not Mr. Gray authority to make bids for work to be performed by your concern?

Mr. FRANK.—I object to that. In the first place, making contracts is not an authority which is conferred by the office of secretary per se, and to that extent the document is immaterial, unless some resolution by the company or some special authority is conferred on him for that purpose. The conclusion of the witness as to his authority would not be competent.

Mr. McCLANAHAN.—Q. Answer the question,

(Testimony of James Robert Christy.)

please; do you know what it is, Mr. Christy?

A. I would like to have your question repeated.

Q. Please read the question, Mr. Reporter.

(The Reporter reads the question.)

A. In connection with that I can state that when we submit a bid to the United States Government, it is necessary for us to pass a resolution authorizing the person doing so to sign that contract or sign that bid. There was no special power imparted to Mr. Gray to enter into any particular contract of this nature, that I know of.

Q. When you submit bids for work who signs the submission? [1082—994]

A. With the United States Government usually the President of the company.

Q. Let us eliminate the Government from this case.

A. I cite that as I understand that is the legal form.

Q. Let us eliminate the Government. Who signs the bids when they are submitted?

A. The secretary or president.

Q. Is your company a corporation?

A. Yes, sir.

Q. Who are the principal stockholders?

Mr. FRANK.—That is immaterial, who the stockholders are of the corporation. A stockholder has no authority to do anything in a corporation as a stockholder. It is only the officers elected by the stockholders.

Mr. McCLANAHAN.—Q. Answer the question.

A. Mr. Eva, Mr. Gray and Mr. Christy.

(Testimony of James Robert Christy.)

Mr. McCLANAHAN.—I offer the letter identified by the witness in evidence, and ask to have it marked Respondent's Exhibit Christy "B" and shall read it in evidence.

Mr. FRANK.—I object to it upon the ground it is not proven it is the act of the corporation.

Mr. McCLANAHAN:

“San Francisco, Cal., August 2, 1909.
Matson Navigation Co.,
Gentlemen,—

Sub.—Repairs 'Hilonian.'

We hereby respectfully submit a figure of Eleven Thousand Seven Hundred Forty-nine (\$11,749.00) Dollars on the repairs to the above steamer, all to be in strict accordance with the specifications and further we guarantee to finish the work therein specified in Twenty-five (25) Calendar days from the date of delivery of vessel at our yard.

Respectfully submitted, [1083—995]

UNITED ENGINEERING WORKS,

Per H. P. GRAY, Sect.”

Underneath the closing of the letter there is written in pencil—

Mr. FRANK.—We object to the writing on this on the ground that it is not the act of this corporation or anyone authorized by it to make any addenda to any writing of the corporation. Furthermore, it is a self-serving entry made by the respondent itself.

Mr. McCLANAHAN.—“This bid submitted on acc. of it being worth \$250.00 to have vessel at U E

(Testimony of James Robert Christy.)

Wks to complete work already contracted for in the shape of retubing Donkey-Boiler, retubing Howden system etc. Per Capt. Saunders."

Mr. FRANK.—"Per Capt. Saunders" is the signature, is it not?

Mr. McCLANAHAN.—I don't know.

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—I object to the statement being made that it is the signature—

Mr. FRANK.—Put the whole in; put the dashes in.

Mr. McCLANAHAN.—Mr. Bennett will see to that.

Q. Mr. Christy, do you not know that this bid which I have just read into the record, of August 22d, 1909, was accepted by the Matson Navigation Company?

Mr. FRANK.—I object to that. If they made any acceptance of that bid it is in writing and the writing should be produced and is the best evidence.

Mr. McCLANAHAN.—Answer the question, Mr. Christy.

Mr. FRANK.—I further object to it on the ground that it is asking the witness for a conclusion of law; if it was accepted then what was said between the parties is the evidence [1084—996] of the acceptance and any conclusion that this witness may draw respecting it is not binding on the libelant.

Mr. McCLANAHAN.—Answer the question, Mr. Christy.

The WITNESS.—Am I to answer his question?

(Testimony of James Robert Christy.)

Mr. FRANK.—Go on and do the best you can.

A. My knowledge regarding the work on the “Hilonian” consists of the fact that I was instructed that the ship was coming to our yard to be repaired.

Mr. McCLANAHAN.—Q. Mr. Christy, do you not know that this bid of August 2d was accepted by the Matson Navigation Company?

Mr. FRANK.—The same objection as before.

A. I consider that I have answered the question, Mr. McClanahan.

Q. Do you decline to answer it further?

A. No, sir.

Mr. FRANK.—That is not a fair question to put to the witness.

Mr. McCLANAHAN.—Q. Mr. Christy, if you consider that you have answered it, I must confess that I do not understand that you have answered it; my question is a very simple one. It can be answered yes or no and you can make all the explanations after you have answered yes or no that you wish. Now, will you please answer the question yes or no—was that bid accepted by the Matson Navigation Company?

Mr. FRANK.—How can you affirm that the witness can answer that yes or no when he has already stated he has no knowledge on the subject, that all he knows is according to his answer, “my knowledge regarding the work on the ‘Hilonian’ consists of the fact that I was instructed the ship was coming to our yard to be repaired”? [1085—997]

A. That is the only answer I can give you, Mr.

(Testimony of James Robert Christy.)

McClanahan. I know of no acceptance of any contract by the Matson Navigation Company. Personally, I had no dealing with them on this subject whatever.

Q. But irrespective of whether you had dealings with them or not, do you not know that that bid was accepted?

A. I do not. I know of no acceptance of it. I should like to explain that first of all. The question is this: I do not know that that is a bid. I simply see a letter written and signed by Mr. Gray, and I do not know that Mr. Gray entered into any contract, of my own knowledge, with the Matson Navigation Company, or that the United Engineering Works entered into any contract. [1086—998]

Q. When you say of your own knowledge you do not know that this bid was accepted by the Matson Navigation Company—

A. (Intg.) I did not refer to it as a bid. I refer to it as a letter signed by Mr. Gray.

Q. When you say that of your own knowledge you do not know that this bid was accepted by the Matson Navigation Company, do you mean to carry the inference that you know through hearsay from either Mr. Eva or Mr. Gray that it was accepted?

A. No, sir. I answered that question before when I started. I said, if you will look at the record, that my knowledge consisted that I was instructed that the ship was coming to our yards for repairs, and that is the extent of my knowledge in connection with the matter.

(Testimony of James Robert Christy.)

Q. Did Mr. Gray never tell you that this bid of August 2 had been accepted?

A. The only answer I can give to you to that question is that I was instructed that the ship was coming to our yards for repairs.

Q. Did you not take that then as a statement to the effect that the bid had been accepted, and did you not know from that statement that the bid had been accepted?

Mr. FRANK.—I object to that as trying to compel the witness to draw a conclusion from an assumed statement of facts. Whatever passed between him and these parties you are perfectly welcome to, but any conclusion that the witness may form is not competent evidence at all. I will state to you, Mr. McClanahan, that we have no objection to all the facts connected with this transaction being placed on the record fully and fairly. We do object, however, to your attempting to place a construction upon these facts and [1087—999] compel the witness to accept that construction; he had nothing to do with the details of it at all.

Mr. McCLANAHAN.—I do not know that it would make any difference whether you objected to our getting the facts in this case in the record or not, they are going to be gotten in, whether you object or not.

Q. Will you please answer the question?

Mr. FRANK.—It is not necessary to say that, because if you did not put them in I would put them in myself, but I propose to see that they are put in in proper shape and not in improper shape.

(Testimony of James Robert Christy.)

Mr. McCLANAHAN.—Q. Answer the question.

A. Kindly repeat the question again.

(The last question repeated by the reporter.)

Mr. FRANK.—The witness has not said that he knew that the bid was made yet, that any bid was made.

A. I think that the question is put in such a way it is trying to make me say something that is not the fact, and I decline to answer that question.

Mr. McCLANAHAN.—Q. What is it that I am trying to make you say?

A. You are trying to make me say that there was a contract between our firm and the Matson Navigation Company. I know nothing of the contract between the United Engineering Works and the Matson Navigation Company.

Q. I will not be technical with you; call it a bid or letter or anything else, this letter of August 2; was it not known to you by this statement, that the “Hilonian” was coming to your works, that this proposition contained in this letter of August 2 had been accepted? [1088—1000]

Mr. FRANK.—We object to that on the same grounds as heretofore stated, as being an attempt to make the witness decide what is an acceptance and what is not an acceptance. Get what you think or construe to be an acceptance placed upon the record and the court will determine whether it is an acceptance or not.

Mr. McCLANAHAN.—Q. Answer the question.

A. I consider I have answered that question.

(Testimony of James Robert Christy.)

Q. Mr. Christy, did you not know that this offer which I have called a bid of August 2 was prepared by your company with the knowledge that the specifications referred to therein had been submitted for competitive bids to various shops in this city?

Mr. FRANK.—Q. That is of your own knowledge, Mr. Christy. The rumors are not part of it.

A. No, sir, I do not know that.

Mr. McCLANAHAN.—Q. Did you hear that it was either from Mr. Eva or Mr. Gray?

Mr. FRANK.—I object to that as calling for hearsay.

A. To the best of my knowledge, I do not think I discussed that job with Mr. Eva or Mr. Gray. I may have heard rumors around the yard that the “Hilonian” was considering some repairs. The matter of the “Hilonian,” I have had very little to do with her repairs previous to this time.

Mr. McCLANAHAN.—Q. Will you please produce, Mr. Christy, the specifications referred to in the letter of August 2, 1909?

A. I have not them. I cannot produce them.

Mr. McCLANAHAN.—I would like to have your company produce them.

Mr. FRANK.—Well, call on the company, the proper officer of the company, and if he has them, I will produce them. [1089—1001]

Mr. McCLANAHAN.—Mr. Frank, I have called upon you on several occasions for this specification, two that I remember, and you have said that you would produce them.

(Testimony of James Robert Christy.)

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—And I have not seen them yet. I would like to have those specifications produced so that I may continue my examination of the witness. I do not see how I can continue the examination without them.

Mr. FRANK.—I will have to consult with the people who have the custody of the specifications mentioned in that and get them; that is all.

Mr. McCLANAHAN.—Shall we adjourn?

Mr. FRANK.—I have seen copies of specifications just the same as you have produced here in Siversen's testimony which are not the papers. They seem to differ, a good many of them.

Mr. McCLANAHAN.—If you will admit that Respondent Siversen's Exhibit "A" is a copy of the specifications referred to in the letter of August 2, I will be content.

Mr. FRANK.—I cannot admit it because I do not know that those are a true copy of the specifications that were referred to there. I have compared it with some papers that I had handed to me as other copies, and it is not the same.

Mr. McCLANAHAN.—I will then have to defer my cross-examination until you produce the papers.

Mr. FRANK.—All right.

Mr. McCLANAHAN.—When can you have them?

Mr. FRANK.—Possibly this afternoon. I will try to get hold of them. [1090—1002]

Mr. McCLANAHAN.—Then we can take another witness and excuse Mr. Christy until 2 o'clock.

(Testimony of L. W. Musgrave.)

Mr. FRANK.—Very well.

[Testimony of L. W. Musgrave, for Libelant.]

I. W. MUSGRAVE, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Musgrave, you are the dock master over at the United Engineering Works?

A. Yes, sir.

Q. And as such keep a record of the docking of vessels, the length of time they are on the dock?

A. Yes, sir.

Q. And the material used?

A. Only in my department.

Q. In your department? A. That is all.

Q. That is painting? A. Painting.

Q. I show you what purports to be such a record marked "Dock Master's Record United Engineering Works," page 130, and ask you if this is made by you. A. That is the original carbon copy, yes.

Q. Of the record? A. Yes, sir.

Q. Made at the time that the vessel was on the dock?

A. Made at the time the vessel went off the dock.

Q. Under the heading of "Date" on that record, what does September 10 stand for?

A. The date that she went on.

Q. And what does September 16 stand for?

A. The day that she came off.

Q. And under the heading of "Docked P. M.," what does "1" stand for? A. 1 o'clock P. M.

Q. And "launched" under "1 P. M."?

A. 1 o'clock.

Q. And under the heading of "No. of days"?

(Testimony of L. W. Musgrave.)

A. 6 days, and nights is marked in 4. [1091—1003]

Q. And “nights”—4 nights?

A. Yes. Of course that does not include all the nights that she was on the dock; that simply includes the nights she was worked on on the dock.

Q. I see up on the corner here the word “tons,” “2654.” A. 2654 tons.

Q. What is that? A. Gross tons.

Q. Of what?

A. That is her gross tons. I think that is cubic contents; we allow 100 cubic feet per gross ton. I may not be correct in that statement, but I think that is what it is; that is supposed to be her gross, her registered gross tonnage.

Q. Of the steamer “Hilonian”?

A. Of the “Hilonian,” yes.

Q. What is the other record there under the head of “remarks”?

A. That is, “to cleaning and painting two coats, 87 gallons Bredell’s priming.”

Mr. McCLANAHAN.—Mr. Frank, are you going to introduce that in evidence?

Mr. FRANK.—I do not want to ask them to leave it here, so I am getting it in this way.

Mr. McCLANAHAN.—Are you getting it in this way?

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—I was waiting for you to offer it. I object to all this line of examination on the ground that it is immaterial, irrelevant, in-

(Testimony of L. W. Musgrave.)

competent, self-serving, hearsay, not binding on the respondent, and ask that my objection apply to all these preliminary questions which were simply preliminary as I thought to introducing the document in evidence. That was the reason my objection was not made sooner.

A. "To cleaning and painting two coats, 87 gallons of Bredell's [1092—1004] priming, 77 gallons of Bredell's fouling."

Mr. FRANK.—Q. What is the rest of that record?

A. There was cement used around the hub, 50 pounds, I think. That is omitted there. That is on Mr. Roberts' stock record.

Q. What is the bottom?

A. That is cementing; that was to be the cementing in the wheel, three hours for two men. That is on the time-cards, included in the time-cards.

Q. It is included in their time-cards? A. Yes.

Q. You made that record yourself, did you?

A. I made that record myself.

Q. At the time you made it, the facts therein stated, state whether or not you knew them to be true or not? A. They were correct.

Q. They are correct? A. Yes.

Q. It is your business to—

A. (Contg.) To see that they are correct.

Q. To see that they are correct? A. Yes, sir.

Q. You watch the time when they go on the dock?

A. I watch the time and hour they go on the dock and the docking tag is made up from that, and the

(Testimony of L. W. Musgrave.)

bills are all charged from that.

Q. In regard to the materials used; is that a part of your business, to keep a record of that?

A. I look after the quantity of material used in painting.

Cross-examination.

Mr. McCLANAHAN.—Q. You have charge of the painting and cleaning of the ship, do you, Mr. Musgrave? A. Yes, sir.

Q. That is you know the number of men that you put on it and the number of hours it takes to do the work?

A. No, I do not. I do not keep the men's time. The men keep a [1093—1005] record of their own time; each day they put in a time-card of the number of hours they work on it.

Q. Don't you know the value of it?

A. Only when I estimate on it.

Q. I show you Libelant's Exhibit, Schedule 1, attached to the libel, and call your attention to the item reading "cleaning and painting, 2 coats, \$246." Is that a fair and reasonable figure for that—

A. (Intg.) I presume it is, otherwise—

Q. Let me finish my question. Is that a fair and reasonable figure for the painting and cleaning, the two coats, of that ship?

A. I should say it was a small figure for it.

Q. Small figure for it? A. Yes, sir.

Q. You refer simply to the labor, don't you?

A. Just let me see that again there; cleaning and painting, two coats—yes, it would be a small figure.

(Testimony of L. W. Musgrave.)

Q. For the labor? A. For the labor.

Q. A small figure would be a reasonable figure?

A. It would be a reasonable figure, yes.

Q. Where did you get the paint that goes on to the job?

A. Well, it depends on each job; some people furnish—there is different paint companies furnish the paint; of course it depends on whose paint is used; that is Bredell's; that is furnished by the Bredell Paint Company.

Q. Furnished to who? To you?

A. Sent over to the work to be put on the ship; yes, they send the paint across.

Q. Do you remember their sending this paint over? A. Yes, they sent the paint over.

Q. Do you keep a stock of Bredell's paint on hand? A. Usually a little. [1094—1006]

Q. Do you remember whether this was sent over or taken from the stock?

A. I do not remember whether it was sent over or taken from the stock. It is sent over there to use on their jobs.

Q. On their jobs? A. Yes, sir.

Q. What track do you keep of this paint?

A. I see it opened, I see the paint used, and I see what is left over; what is left over is measured.

Q. With reference to your duties connected with the United Engineering Works, what do you do? Do you make any report to them of the paint used?

A. Only this report is sent in, and it is charged from that.

(Testimony of L. W. Musgrave.)

Q. This here (pointing). A. Yes.

Q. The bill is charged from that? A. Yes.

Q. You know nothing about the charging?

A. I know nothing about the charging.

Q. Do you remember this painting job?

A. Yes, I remember it.

Q. Do you remember how long it took to paint and clean that ship?

A. No, I could not tell you exactly how long it took; I suppose it would take in the neighborhood of a day and a half or two days to do the job.

Q. Putting on two coats?

A. Putting on two coats.

Q. That would be a reasonable time, would it?

A. A reasonable time.

Q. A day and a half or two days. A. Two days.

Q. That would be a reasonable time?

A. That would be a reasonable time, yes.

Q. You don't know anything about any other work done on the ship, do you, other than the painting and cleaning?

A. It was out of my department altogether. The only thing that I [1095—1007] am looking out for is to see when the work is done to get my dock clear; that is the only thing I look out for, see when it is going to be done, to get the dock clear.

Q. You remember this job? A. I remember it.

Q. Do you remember whether any other ships were waiting to be docked at that time?

A. Yes, there were.

Q. What were they?

(Testimony of L. W. Musgrave.)

A. One was the "Ranger."

Q. The tug.

A. The tug "Ranger" had been waiting there, I should say, several days, I do not remember how long without looking at my records. There was other ships waiting there too.

Q. What other ships?

A. I could not tell you without looking the records up.

Q. Where are your records?

A. In Oakland or Alameda, over at the office.

Q. I would like to have you look them up. Isn't this a record on the table that you have read from?

A. Take the following vessels. The tug "Ranger" was the following one.

Q. When was the tug "Ranger" docked?

A. The same day that this one went off, I believe, the 16th, at 3 P. M., two hours after the "Hilonian" went overboard.

Q. I must confess that I cannot make out that "16."

A. She was on two days; she went off the 18th. That would leave it the 16th, and the next vessel went on on the 18th.

Q. Where are the originals of this book?

A. The originals are what are sent over for the charges to be made from; Mr. Curtis, I believe, receives those originals and the charges on the bills are made from them. [1096—1008]

Q. What was the next steamer that went on after

(Testimony of L. W. Musgrave.)

the tug "Ranger"? A. The "Thomas L. Wand."

(A recess was taken until 2 P. M.) [1097—1009]

AFTERNOON SESSION.

Mr. McCLANAHAN.—Mr. Frank, have you secured the specifications?

A. I have a set of specifications here that comes with our records. Whether or *not* is the particular specifications referred to in those letters I am unable to say.

Mr. McCLANAHAN.—Is there no one that can enlighten us on that? A. Not that I know of.

[Testimony of James R. Christy, for Libelant (Recalled).]

JAMES R. CHRISTY, cross-examination resumed.

Mr. McCLANAHAN.—Q. Mr. Christy, your counsel has produced the copy of specifications headed "Specifications for repairs to S. S. 'Hilonian.'" I see on the copy produced on the second line of the first specification, that the word "air" has been inserted in pencil. I see on the fourth line of the second specification that the word "only" has been bracketed in pencil and underscored in pencil. I see on the first line of the seventh specification that the word "finished" is bracketed in pencil. I see on the last line of the seventh specification the added words in pencil "no less." I see on the fifth line from the bottom of the ninth specification that the word "shaft" in two places has been bracketed in pencil. Do you know anything about those

(Testimony of James R. Christy.)

pencil marks? A. Absolutely nothing.

Mr. McCLANAHAN.—We offer in evidence the specifications for repairs to S. S. “Hilonian” produced by the libelant, and ask that it be marked “Respondent Exhibit Christy No. 6.”

Mr. FRANK.—We object to it as incompetent and immaterial.

Mr. McCLANAHAN.—Q. This copy of specifications produced by [1098—1010] your counsel has been seen by you before, has it not?

A. No, sir, it has not.

Q. I am not referring to the physical paper, but to the specifications enumerated there have been seen by you?

A. I could not say. I do not know I have ever seen that specification before.

Q. On your direct examination you referred to the tail-shaft work and rewooding of the stern-bearing. What was the order under which that work was done?

A. When the ship came to our yard, as I explained this morning, I was notified that the “Hilonian” was coming for repairs. That is the order that I received for it.

Q. How did you know that she wanted her tail-shaft drawn? A. There was a list of work.

Q. That is what I want to get at. Was there a list of work furnished you when the ship came to the yard for repairs?

A. A list of work which they proposed to follow, but which in fact they were unable to follow, due

(Testimony of James R. Christy.)

to the fact that they were compelled to make many changes from that list.

Q. Now, will you please produce that list?

A. I have not the list.

Q. Where is it?

A. That is some three years ago since that work was done.

Q. I am asking you where it is. Answer my question, please, Mr. Christy.

A. I have already answered it. I told you I had no list of work now.

Q. You mean to say you do not know where this list of work is?

A. Why, the work was performed and finished and the records were turned in in the form of a completed statement of the work performed on the ship. This list was amended as was found [1099—1011] necessary to depart from the original list.

Q. Do you mean to say that you don't know where that list is?

A. The list would be reproduced in our bill.

Q. Do you mean to say that you don't know where that list is?

A. I mean to say that that list would be in our bill.

Q. I want you to tell me, Mr. Christy, whether you know where that list is now, the original and not the reproduction of it—the original list?

A. I don't know where the original list is now.

Q. Would it not be among the files of your office?

A. No, sir, I could not say; probably a list of that

(Testimony of James R. Christy.)

kind would not be preserved.

Q. That was an important document, was it not?

A. We are doing work of that character every day.

Q. Of what character?

A. Repairing vessels similar to that.

Q. Undoubtedly, but—

A. It goes through our regular routine—

Q. Do you not keep—

Mr. FRANK.—Let him finish his answer.

A. This work goes through our regular routine. The orders go to the foremen in charge of the work, and the foremen carry on the repairs.

Mr. McCLANAHAN.—Q. Do you not keep a record that would contain the specifications of work that you do of this importance?

A. This would be written in the form of a heading for our bill and form of specifications for the work performed on the ship.

Q. I am asking you a question you are not answering.

Mr. FRANK.—He is answering.

Mr. McCLANAHAN.—Q. I am asking you if you keep a record [1100—1012] that would contain work of this character?

A. I should consider the heading of the bill the record that you have in mind.

Q. Is that the only record you keep?

A. That is the only record we keep.

Q. In other words, you destroy the original specifications under which you do work?

A. No, sir; we do not destroy them.

(Testimony of James R. Christy.)

Q. What do you do with them?

A. The specifications of the work would go out to the foremen in the shop; when they got through with them—

Q. Then what becomes of them?

A. They are usually worn out.

Q. They are practically out of existence when the job is finished, the original specifications under which work is done; is that correct?

A. Unless a copy had been made of them.

Q. Do you not always keep a copy in the office?

A. Not always.

Q. Of work of this magnitude, a twelve thousand dollar job?

Mr. FRANK.—The witness has already told you he was the manager over in Alameda, and is not the bookkeeper here.

Mr. McCLANAHAN.—Please do not interject suggestions. Mr. Christy is abundantly able to take care of himself, and my question is proper.

Mr. FRANK.—He certainly is, but I have a perfect right to make my objections as I go along.

Mr. McCLANAHAN.—This is not an objection, but a suggestion.

Mr. FRANK.—It is an objection.

Mr. McCLANAHAN.—I have no objection to your objecting, but do not suggest to the witness.

Mr. FRANK.—I object to you making the statement, for the purposes of the record, that I am suggesting to the witness. [1101—1013] I do nothing of the kind. I am making my objection as I have a

(Testimony of James R. Christy.)

right to do. I take exception to that insinuation or statement that you are making all the time. One would think that you were the only one that had anything to say in the examination being had here.

Mr. McCLANAHAN.—Let us get back and stop our wrangling.

Mr. FRANK.—That is it exactly; do not start it the next time.

Mr. McCLANAHAN.—Read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. As I have already stated, the completed heading of the work performed is a record of that matter.

Q. Now, Mr. Christy, that does not answer my question. If it is not understood by you I want to make it perfectly clear. I understand that ordinarily in work of the magnitude of the work done on the "Hilonian" you were furnished with specifications of that work originally.

Mr. FRANK.—He did not say so.

Mr. McCLANAHAN.—Q. Is that correct, Mr. Christy?

A. We have done very much larger jobs than the "Hilonian's" without a specification.

Q. Ordinarily you are furnished with specifications of work of that magnitude?

A. We are usually furnished with a list of the work to be performed.

Q. We will not quarrel over the terms. I understand that list of work to be performed on the ship is turned over to the foremen of your several de-

(Testimony of James R. Christy.)

partments; is that correct? A. Yes, sir.

Q. Therefore, it necessitated making copies of the list of the [1102—1014] work if you turned over the list of the work to several foremen?

A. Frequently where there is one department that has a very small amount of work to perform that would simply be given that portion of the work that it would have to perform, an extra.

Q. Do you mean to have me understand that when you turned this list of work over to your foremen you keep no duplicate record of the list in the office?

A. I would like to explain to you the principle on which we try to keep a record of the work performed. In most cases of work aboard ship the original scheme of work is very difficult to be followed. In most cases it is impossible to follow it because as the work opens up it presents additional work, modifications of what was proposed to do. In so doing it we have these headings filled out of the actual work performed, and that is the record we try to keep—what is actually performed; not what a man originally proposed to do but what he ultimately is compelled to do through the various differences between the opinion of the man who wrote the specifications before he dismantles an engine and the actual results after it is dismantled.

Q. Have you in mind my question, Mr. Christy?

A. Yes, sir.

Q. Is that your answer to it?

A. That is the explanation of that answer.

Q. Of what answer? A. Of your question.

(Testimony of James R. Christy.)

Q. Am I to understand from that answer, that you do not keep in the office a record of the original specifications or list of work to be performed on a job of this magnitude?

A. We keep a list of the completed work.

Q. And not a record of the original specifications or list of work to be performed?

A. My object is to make a complete record of the finished articles. [1103—1015]

Q. That is not answering my question, Mr. Christy; you may make a complete record of the finished work and all that. I want to know if you keep a copy or a record of the original work before it was changed at all, in your office, or does that die when it passes into the hands of the foremen through use?

A. That depends somewhat on the nature of the job, the size of the job and the character of the job.

Q. I am referring to a job of the size of the "Hilonian."

Mr. FRANK.—I make my objection that it is immaterial whether it is of the size of the "Hilonian" or not. The question is whether or not the record of this particular job was kept. I object to any generalizations that do not appertain to this particular job. The question now is whether the record of this particular job was kept.

Mr. McCLANAHAN.—Q. Answer my question, Mr. Christy.

A. Whether a record of this particular job was kept or not?

Q. Now, you are following Mr. Frank's objection.

(Testimony of James R. Christy.)

Please read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. Personally, I preserved no record of the original work on the "Hilonian." Whether that record has been preserved, I could not tell you, in the city office.

Q. Why do you limit it to yourself? Cannot you testify for the concern of which you are an officer?

A. Not in the city office, no. I am over in the shipyard.

Q. You do not know what they do?

A. I don't know what the practice in the city office is in regard to the filing of such details.

Q. You know such a list is not kept in the files of the office over which you have control? [1104—1016]

A. I know I have preserved no record of the "Hilonian."

Q. And it is not your custom to do so?

A. Not on a job of that character. A job that I personally handle I usually preserve some record of.

Q. And you don't know the custom of the office?

A. I know the custom of the office, but I don't know whether the office has preserved a record of this case. You are asking me to testify to what I know. I am trying to tell you what I know, and not what I do not know.

Q. What is the custom of the office with reference to the preserving of these specifications or lists of work?

(Testimony of James R. Christy.)

A. What is the custom of the office, did you say?

Q. Yes.

Mr. FRANK.—Do you mean the office over here?

Mr. McCLANAHAN.—Yes.

A. I have just told you I am not in touch with the conditions prevailing with the office records on this side.

Q. So you don't know?

A. I don't know what the city office records are.

Q. Or what the custom is?

A. Or what the custom is in regard to filing records.

Q. Of original specifications or lists of work?

A. Yes, sir. That is in the hands of Mr. Eva, who handles our city office.

Q. Do you know whether you receive from the office on this side of the bay the original, or a copy of specifications where work is to be performed on the other side of the bay?

A. I did not in this particular case.

Q. Generally, do you know? Do you know the custom of the office in that respect?

A. The custom of the office would be to make a copy. [1105—1017]

Q. And send you a copy?

A. And furnish me with a copy.

Q. And that copy, according to the custom of your end of the concern is turned over to the foremen and is not preserved, or a copy of it?

A. The orders are entered from this copy.

Q. Answer my question.

(Testimony of James R. Christy.)

Mr. FRANK.—He has answered it.

Mr. McCLANAHAN.—Q. That copy is not preserved by you? A. Not by me.

Q. Or in your end of the concern? A. No, sir.

Q. And you cannot tell me whether Exhibit “C,” which has just been introduced in evidence is the original of the specifications or a list of work to be performed on the “Hilonian”? A. I cannot.

Q. You cannot tell me now whether you received a copy of Exhibit “C”? A. I cannot.

Q. You can tell me, however, that you did receive a copy of the work to be performed on the “Hilonian”?

A. I received a list of work to be performed on the “Hilonian.”

Mr. McCLANAHAN.—I will have to ask you, Mr. Frank, to produce from the records of the office the original of which a copy was made and given to the witness, or else admit that this is such a copy.

Mr. FRANK.—That is the most unique demand I have ever heard of.

Mr. McCLANAHAN.—Are you going to make an objection?

Mr. FRANK.—Yes, I am. You want to demand of me that I make an admission to suit your case; I have no admission to make as to anything except what I know. I have produced what you have asked for, to the best of my knowledge. I have no admission to make of anything that I do not know anything about. [1106—1018]

Mr. McCLANAHAN.—Then I ask you to produce

(Testimony of James R. Christy.)

the original of these specifications or list of work which has been testified to by the witness.

Mr. FRANK.—The witness has already told you they are destroyed. How can I do so.

Mr. McCLANAHAN.—The witness has not testified to that effect. He testified to the effect that the copy he received from the office over here was destroyed. I want the original from which that copy is made.

Mr. FRANK.—I have produced all the papers that I know anything about relating to that matter. I do not see the object of this. If you have the specifications that you claim are a part of that contract or the alleged contract it is in your power to produce them.

Mr. McCLANAHAN.—Q. Do you know a man named Siverson? A. Siverson, yes.

Q. He was an engineer in charge of some of this work, was he not?

A. Yes, sir, he was a foreman in charge of some of it.

Q. Do I understand you to say or to mean that you cannot identify any of the work on this Exhibit "C," as work done on the "Hilonian"?

A. I have not looked at it with that in view because I am not familiar with the specifications of the job, consequently I would not be able to identify it.

Q. Are you an engineer, Mr. Christy?

A. I am.

Q. You have charge of the works, have you not?

(Testimony of James R. Christy.)

A. I am manager of the works, yes.

Q. And you were manager of the works in August and September, 1909? A. I was.

Q. And what do you mean by being manager of the works? [1107—1019]

A. In general charge of the works.

Q. Practical man? A. Yes, sir.

Q. Cannot you tell now by looking at the specifications marked Exhibit "C," whether that work was done on the "Hilonian" or not, examining each item of specification?

A. I have had a man in charge of this work directly, whose duty it is to be in actual touch with every little detail of this work. I appoint some man to take charge of it. The man you just asked me about was one of the men in charge of that work, in detailed charge of the work. It was his duty to follow that specification or any specification submitted to him, and any changes or alterations from it he would discuss with the man in charge of the job and be guided by his directions. He was so ordered by me.

Q. Is it your custom as manager when you see lists of work to be performed, to turn it over to the several foremen without any further examination on your part?

A. I would go through the work with the foreman, discuss the job and instruct him—give him his instructions.

Q. Did you do that with the "Hilonian"?

A. In this case I instructed the man in charge who

(Testimony of James R. Christy.)

he was to receive his orders from and who he was to work under.

Q. Did you go over the work with him?

A. I did not go over the ship with him, no.

Q. Did you go over the specifications with him?

A. I may have gone over the specifications; in a general way, understand, not in any great detail.

Q. Cannot you now examine Exhibit "C," and testify as to whether or not that work was work that you went over with your foremen? [1108—1020]

A. I could not. It is too long ago. I was not enough in detail on the job to impress my mind with those details so that I could identify that as the list of the work.

Q. Do you recognize a difference between contract and time work in your shop?

A. In what way do you mean?

Q. In any way? A. No, sir.

Q. So that when you receive lists of work to be performed from the office over here, you do not know whether it is time or contract work, necessarily?

A. I might know of it being a contract, but it would not go on the orders as a contract. The list of work would be entered on the orders and the work would go into the shop and be handled exactly the same whether a contract or day's work. We make no distinction in the shop in any way; the men know no difference.

Q. So then it would not be unusual for you to have received the list for the work to be done on the "Hilonian" and not know that it was work to be done

(Testimony of James R. Christy.)

under a contract? A. It would not be unusual.

Q. And in this particular case, you did not know it was work to be performed under a contract?

A. I do not know that there was a contract made on the "Hilonian"; I did not know at the time.

Q. Did you know it subsequently?

A. I have heard it discussed. I have heard a number of people state there was a discussion over this matter. You were one of the gentlemen.

Q. While the work was going on? A. No, sir.

Q. You did not know, then, subsequent to the commencement of the work and prior to its completion, that the work was being done under a contract?

A. I did not. [1109—1021]

Q. Do you see to it, is it a part of your business to see to it that all work performed in your department, or in the shops where you have control, is charged for and billed?

A. No, sir; the billing is done in our city office.

Q. How is it done? How do they receive information on which to make out bills?

A. The lists of work are turned in to the city office, and the time on this work is also turned in to the city office, and the lists of material.

Q. In what way? In what shape?

A. In the form of a charging-sheet.

Q. What are those charging-sheets made up from?

A. From the time-cards.

Q. What else? A. The order tags.

Q. That is, the stock cards? A. Yes, sir.

Q. Anything else?

(Testimony of James R. Christy.)

A. That is the original from which all this information comes.

Q. How, when it reaches the office for billing purposes, do they distinguish time from contract work?

A. How do they distinguish it?

Q. Yes. A. You mean in rendering a bill?

Q. Yes.

A. They must have office records of what they have proposed to do.

Q. When you get this original list of work to be performed, has it not any identification mark on it at all? A. No, sir.

Q. Are you sure of that?

A. A list of work would not have any identification mark on it.

Q. Anything accompanying the list of work?

A. No, sir. Our records of that nature are carried in the city office entirely. [1110—1022]

Q. Are you sure of that?

A. That is the practice for our city office to preserve our records there.

Q. Does not this list of work have a job number on it?

A. The job number originates in the shipyard.

Q. As distinguished from the office?

A. The shipyard's practice is to enter an order number for a job, and that is where the men charge their time on an order number so and so.

Q. You say that originates in the shipyard?

A. The office at our yard.

Q. Is that your end of the concern?

(Testimony of James R. Christy.)

A. Yes, sir.

Q. So that the order numbers originate with you?

A. Yes, sir.

Q. You get this original slip of paper from the main office here and place on it the order number?

A. I have an order number placed on the books for that particular job.

Q. Will you please tell me the order number of the "Hilonian" slip that originally came to you from the office?

A. I could not do that. It is three years since that order number was entered.

Q. Didn't you keep a record of that?

A. Certainly, they keep a record.

Q. Where is that record?

A. In the shipyard. Have you not had the order numbers? Do you want to know from memory?

Q. Not from memory.

A. There is no trouble about giving you the numbers of the jobs.

Q. I do not want the numbers of the jobs indiscriminately. I want the original number that was given to the original list of work for the "Hilonian."

[1111—1023] A. Have you your bills there?

Q. Yes.

A. I think you will find the numbers on the bills, are they not? The practice is to put them right on the bills.

Q. Mine are all in confusion, because you made a mistake when you attached the original exhibits. I had to go up and make recopies. Here is my copy of

(Testimony of James R. Christy.)

the large bill. You remember that, don't you (handing)?

A. Yes, sir. Where would the heading be?

Q. It is a voluminous document?

A. There is so much of it. There is the heading (pointing).

Q. And here is the tail?

A. That may be the only number there. It is usually printed.

You are pointing now to 31814.

A. There is an order number stamped here.

Q. What are you pointing to? A. 5299.

Q. Schedule 2?

A. If you have a pencil memorandum showing Schedule 2 I do not know what it means.

Q. It is a copy of the libel served on us by you.

A. I see.

Q. Schedule 1, which is the large order, you do not see any order number on?

Mr. FRANK.—I think I shall have to enter an objection here, Mr. McClanahan. I have not objected to this fishing expedition that you have been on because I knew what it must come to in the end. These bills, as the witness already has testified, are not bills made out by him, or in his office or department, so there is nothing that he can testify to respecting the job numbers on that except argumentatively, and that is not competent. [1112—1024]

Mr. McCLANAHAN.—I am simply complying with the request of the witness, or rather, the suggestion of the witness that the bill itself would show

(Testimony of James R. Christy.)

the order number. I think I have a perfect right to show him the bill to see if that is true.

Mr. FRANK.—That shows he thought you might find it there. If he does not find it there—

Mr. McCLANAHAN.—Q. You do not find any order number on Schedule 1, the large bill?

A. I had not completed the investigation of it. It may be somewhere on the heading. It is a very voluminous affair and has been rewritten a dozen times.

Q. I should like you to complete your investigation. I thought you had, Mr. Christy.

Mr. FRANK.—You will have an opportunity to get all that from the party who makes up the bills. You seem to go on a fishing expedition with everyone that comes on the stand in the hopes that you may perhaps get a witness to make a guess which may or may not conform to the facts. I have given you the job numbers as requested. You have had all the job numbers on all of the tickets and on all of the material cards which indicate the nature of the work that was done under it.

Mr. McCLANAHAN.—I will discontinue this line of examination right here if you will tell me the job number placed on the original specification.

Mr. FRANK.—I am not the witness or the party who has it. I do not know anything except what is told to me.

Mr. McCLANAHAN.—I will disregard its being hearsay if you will tell me what was told you.

Mr. FRANK.—If you will accept it as evidence

(Testimony of James R. Christy.)

then I will tell you. I am not going to fill the record with something that you will accept if you like, and reject if you do not like it.

Mr. McCLANAHAN.—I will discontinue this examination on that line then.

A. (After examination.) I have not found it.
[1113—1025]

Q. Will you please examine your records and give me the job number that was placed on the original slip? A. Am I instructed to do it?

Q. No; you are requested to do it.

Mr. FRANK.—I will give you the job numbers, if you want them, that are on that original bill, there is more than one job number there.

Mr. McCLANAHAN.—Mr. Frank, I am asking the witness to give me from his records the original job number that was placed on the original slip of the “Hilonian” work?

A. Well, of course, I would be guided by the instructions of my attorney in that matter.

Q. Well, Mr. Frank is not objecting to that, Mr. Christy. A. Is that so, Mr. Frank?

Mr. FRANK.—We do not care anything about that. He is perfectly welcome to them.

Mr. McCLANAHAN.—Q. You will do that.

A. Certainly, if Mr. Frank says so. This is rather out of my line; I am not a legal sharp.

Q. Mr. Christy, did you figure on any of the work which was written on the slip turned in to you for work to be done on the “Hilonian”?

(Testimony of James R. Christy.)

A. No, sir; I had nothing to do with the job whatever.

Q. You were not consulted?

A. Not consulted on it.

Q. You know, of course, that the "Hilonian" was seeking bids for work?

A. I heard rumors on the waterfront; that is all I had heard, around our yard, but I personally knew nothing of it.

Q. You heard nothing from your partners?

A. I never heard anything at all; I never have discussed it with them. [1114—1026]

Mr. FRANK.—They are not partners, they are stockholders. A. Associates.

Mr. McCLANAHAN.—Q. Did you ever discuss with anyone the question of the removal of the "Hilonian's" crank shaft? A. No, sir.

Q. Did you ever have anything to do—

A. Now—

Q. Pardon me; I withdraw that.

A. When you refer to that, I would like to correct that. We had a list of work. If that was in the list of work, I probably discussed the job with the foreman at the time the orders were entered, but other than that, no.

Q. And you have no distinct recollection of that discussion even with the foreman?

A. No, I have not. I know this, that we prepared in the shop to turn the crank shaft; that I had given orders for such arrangements to be made to be ready to turn up her crank shaft; I directed them, if you

(Testimony of James R. Christy.)

brought the shaft out, that it be fitted up to do the job.

Q. Did you ever have anything to do with the changes in the original list of work to be performed?

A. In this regard, I instructed the foreman to take orders from the representatives of the company, if there were any changes or alterations they might want to make.

Mr. FRANK.—Q. You say representatives of the company; what company do you mean?

A. The Matson Navigation Company.

Mr. McCLANAHAN.—Q. What foreman do you mean?

A. Mr. Siversen, Mr. Wilhelmsen.

Q. Would Mr. Siversen or Mr. Wilhelmsen either of them, have authority of themselves to change contract work?

A. Well, as I explained to you a while ago, it is almost impossible [1115—1027] to follow the specification on engine repairs, and a foreman is instructed where his judgment shows him it is necessary to make alterations, to discuss that point with whoever is in charge and alter it accordingly.

Q. So when you take contract work you take it with the understanding, do you, that there is to follow necessarily changes in the contract, or the work to be performed under the contract?

A. I would say this, that my experience teaches me that in writing a specification, without dismantling a piece of machinery, it is almost impossible to describe the condition that exists in that machinery

(Testimony of James R. Christy.)

after it is dismantled, and it would be a very ordinary thing to find a piece of machinery entirely different from the man's idea before it was dismantled.

Q. Now, I will have to have read to you my question. I am very much obliged to you for your statement, but I want you to answer my question, for I do not think you have reached the question.

(The last question repeated by the Reporter.)

A. I will try to. It would be impossible to do that.

Q. It would be impossible to do what?

A. To take a contract with the view that I was going to do something different from what you contract for.

Q. Isn't that what you have just stated?

A. No, sir. I stated that it was nearly impossible for any man to write a specification covering the repair of a piece of machinery that had not been dismantled and have his specifications closely followed.

Q. Do you mean to say that there are no marine contracts for the repair of vessels that are carried out?

A. The repair of a vessel and the repair of a piece of machinery are really two different subjects. The hull of a vessel in a [1116—1028] general way you can find the condition of.

Q. Let us confine ourselves to the repair of machinery.

A. There are specifications that are followed where the nature of the work can be seen, but where the work cannot be seen it is a common thing to find the specifications very much at fault.

(Testimony of James R. Christy.)

Q. Very much at fault? A. Yes.

Q. But at the same time you enter into contracts, do you not, to carry out such specifications?

A. We frequently contract to do work as per specifications, and after discovering it is impractical to do this work, we depart from that specification under the orders of the party who has control of the work.

Q. This offer of August 2 stipulates that the work is to be done in strict accordance with the specifications, I see. Is this "Hilonian" work of such a character that it would be impossible to carry out the specifications which were submitted to you originally?

A. In regard to the "Hilonian" I know there were a great many departures made necessary from the original specifications.

Q. Well, what are those, please; tell me.

A. One of the jobs when the ship was on the dock was they had to cut a hole in the bottom of the ship to get the oil out of her tanks before work could be carried on inside of the ship.

Q. What work? A. Repairs inside of the ship.

Q. What repairs?

A. I would like to ask you a question. I would like you to explain your question a little more clearly; and I would like to have it repeated, I do not quite understand what you said. [1117—1029]

Q. Read the question, Mr. Reporter.

(The question repeated by the Reporter.)

A. Well, what I have said there would have no bear-

(Testimony of James R. Christy.)

ing on your question at all, because you have asked me whether it could be carried out, the specifications, while a great deal of this work was not in the specifications that was done, it is additional work.

Q. But it would not be impossible to carry out the specifications as they were originally presented to you?

A. Not impossible, but it would be probably unwise.

Q. Unwise.

A. Unwise, on the part of the owner of the ship, as they would be doing useless work frequently and not doing such work as they should do.

Q. Do you remember any details of the specifications that it would have been unwise to have carried out as specified? I am not referring now to extra work.

A. I believe the crank-shaft would have been a useless piece of work.

Q. And did you believe that at the time you received the slip from the office?

A. I didn't know it until the ship was dismantled and got into shape to find out.

Q. Didn't know what?

A. That it was a useless piece of work.

Q. Do you remember why it was useless or would have been useless?

A. My recollection is they supposed the shaft to be in a much different condition from what they found it.

Q. Who supposed it?

(Testimony of James R. Christy.)

A. The man who wrote the specification or the list of work.

Q. And that made it useless to do what?

A. The work as called for under their original list. [1118—1030]

Q. In other words, it made it useless to take the crank-shaft to the shop?

A. Yes, it would be an unnecessary work to have done it; it was so concluded on investigation by the Matson Company's representatives, and they decided not to do it.

Q. Can you think of anything else that was decided to be useless?

A. Not at this moment, I cannot. I do not know of the job in detail. We had men in charge of that work who were in constant touch with all of these details, and they would be familiar with these subjects.

Q. Under your system of job numbers it is perfectly easy for you to keep track of the work that you did, different classes of work, is it not?

A. Well, keeping track of work is quite a job always, and we adopt quite a system, have quite an elaborate means of trying to keep it, keep it accurate.

Q. It is not difficult, is it, to follow the time and labor and material put on a particular piece of work?

A. If you have timekeepers on the work, why, it is possible to keep a fairly accurate record of all work done.

(Testimony of James R. Christy.)

Q. Did you have any timekeepers on the "Hilonian" work?

A. We had the timekeeper always in our yard.

Q. Did you have one on the "Hilonian" work?

A. Not particularly the "Hilonian"; he keeps all of our work, all the work that is in the shop.

Q. What is his name?

A. The man in charge of the time department now is Walter White; the man that was in charge then was—

Q. Sjoberg? A. Sjoberg. [1119—1031]

Q. So that if there is a contract for a piece of work and it is decided to change one of the specifications of the contract, you give that change a new number, do you, the work done under the change a new number?

A. Not necessarily. It depends on the conditions under which the work was being done.

Q. But you would give it a new number, could you not, and keep track of the change?

A. Well, if you are working on one piece and a part of the work was to be done on one number and part on another number, you would lead to confusion. So we try to keep our time as simple and direct as possible so that there will be no blundering, no errors.

Q. You never heard of any contemplated change in the original list of work furnished to you, did you?

A. Contemplated?

Q. Yes. A. No, sir.

Q. That matter of changes was left to the Matson

(Testimony of James R. Christy.)

Navigation Company's representative and to Mr. Wilhelmson? A. And Mr. Siverson.

Q. Well, Mr. Siverson was under Wilhelmson, was he not?

A. Well, Siverson was directly in charge of that job.

Q. Wasn't he under him in authority?

A. Mr. Wilhelmson is the general foreman of the yard.

Q. My impression, from Mr. Siverson's evidence, I may be wrong, is that Siverson stated that he did not have authority to make changes.

A. Mr. Wilhelmson is a superior officer. The changes were supposed to be originally from the Matson Navigation Company; they are the people who had the authority to make changes, not ours.
[1120—1032]

Q. Well, if it is a contract they could not make a change without your consent?

A. Well, I consider that we had no contract on that job. I am not a legal sharp on the matter, I don't know. The job was so different from what was originally discussed that it would be almost impossible to do it under any contract.

Q. Why is it that you consider that you had no contract on that job?

A. Well, the Matson Navigation Company must have so considered it themselves; they had a time-keeper at our yard keeping the time of the men.

Q. I am not asking—

A. (Contg.) —in the beginning, and if it was

(Testimony of James R. Christy.)

a contract job why should you keep the time?

Q. I am not asking for the attitude of the Matson Navigation Company. I am asking you for your attitude. Why do you consider that you had no contract? A. I drew my conclusion from that.

Q. From the fact that they had—

A. (Intg.) They had a timekeeper of their own, and they kept the time of every man working on the job.

Q. That is the reason you conclude that there was no contract?

A. Yes. You have asked me that question right now, that is why I answer you.

Q. Not because there was no acceptance of this offer of August 2?

A. I know of no acceptance of it. I know of no contract, and I know also they had a timekeeper there, so that led me to believe that it was not a contract.

Q. Who was the timekeeper? A. Mr. Putzar.

Q. Is he the gentleman that you spoke of in your direct examination? [1121—1033]

A. I do not know what you refer to, in my direct examination. What do you mean by that?

Q. The examination by Mr. Frank.

Mr. FRANK.—What is it? What particular thing do you refer to; that is too indefinite.

Mr. McCLANAHAN.—Q. He mentioned a Mr. Putzar in his direct examination. Is that the man you refer to now as timekeeper of the Matson Navigation Company?

(Testimony of James R. Christy.)

A. There is only one Putzar I know of that was on the job.

Q. It must have been the same man.

A. I guess it must have been.

Q. It must have been the same man. A. Yes.

Q. So Mr. Putzar, as I understand it, was the time-keeper on the job?

A. Mr. Putzar was the adviser of the job, and he kept time on the job. Captain Saunders told me that Mr. Putzar was their adviser on that job, and what Mr. Putzar advised them to do they would do.

Q. Mr. Klitgaard was the engineer, was he not?

A. Mr. Klitgaard was an engineer of the ship during a portion of her time. Mr. Putzar took her out as the engineer when she was completed.

Q. Do you know whether Mr. Klitgaard was not the engineer during all the time of the repairs?

A. I have an impression that he was not.

Q. You don't know, though?

A. He told me that he was leaving the ship.

Q. You don't know, though?

A. He told me that he was leaving the ship. [1122—1034]

Q. But you don't know?

Mr. FRANK.—Draw your own conclusions.

Mr. McCLANAHAN.—Q. He was leaving the ship on the next voyage?

A. No, he was leaving her at the yard, and that Putzar was going to take the ship as chief engineer.

Q. Mr. Klitgaard was there through the whole repair work, was he not?

(Testimony of James R. Christy.)

A. I do not know whether he was or not, without thinking further into that.

Q. By the way—

A. (Intg.) I had an impression that he was away from that ship part of the time.

Q. By the way; were you there during the repairs?

A. I was in the yard during the repair of the vessel.

Q. All through the work?

A. To the best of my recollection, yes.

Q. Any other ships being repaired at that time?

A. More than likely. Hold on; let me see, now. I think that we were building a new job at that time.

Q. What was it—an engine?

A. No, a ship, and we stripped all the men off that ship to rush the “Hilonian” out, took nearly everybody in the yard and put them on the “Hilonian.”

Q. Why?

A. So as to rush the job, get the ship out; there was a great pressure to get the ship out and turned over.

Q. You say you were building a new ship. Were you not building an engine?

A. I do not think so. I could not tell you without looking up the records. I am under the impression we were building a new vessel at that time; we were building a boat for the Standard Oil Company, if I am not mistaken.

Q. Would the class of men which you say you took from the building [1123—1035] of this ship be the class of men that you would want to put on the

(Testimony of James R. Christy.)

“Hilonian” machinery work?

A. Well, we would take both machinists and shipbuilders for that job.

Q. Is that your answer to my question, would it be the same class of men?

A. We work both classes of men, both shipbuilders and machinists.

Q. On the “Hilonian”? A. Yes, sir.

Q. And took them from this other ship?

A. We delayed our other work and held it back to try and give this ship dispatch, due to the fact that she was in a hurry.

Q. Will you please answer my question? Did you take these men from the ship, from the work you were doing, on this ship?

Mr. FRANK.—I submit that he has answered your question over and over again, and you seem to want a categorical answer to everything that you ask, and do not accept what he says.

A. Am I a witness for you or for the other fellow?

Mr. FRANK.—You are not a witness for anybody; you are here to tell the facts.

Mr. McCLANAHAN.—Q. Did you take these shipbuilders and mechanics from the ship that you were building and put them on to the “Hilonian” job? A. I have already answered that question.

Q. All right, sir. Do you know anything about the value of painting and cleaning a ship?

A. Yes, sir.

Q. I show you your bill attached to the libel, where you have charged \$246 for cleaning and painting,

(Testimony of James R. Christy.)

two coats, on the "Hilonian." Is that a fair figure for that labor, Mr. Christy? [1124—1036]

A. Can you tell me how many gallons of paint was required to put on that ship? If you can I will tell you.

Q. 87 gallons of one kind and 77 gallons of the other kind.

Mr. FRANK.—He is asking you concerning the labor.

The WITNESS.—That would govern the labor. May I have a piece of paper? I want to figure the number of gallons of paint used. It was 87 and 77.

Mr. FRANK.— I want to enter an objection to that at this time on the ground that it is immaterial, because the charge that has been made is made for the actual time and labor that was actually put in on the job and not made upon an estimate; estimates are uncertain things. (Addressing the witness.) Go on and make your estimate.

A. What is the charge?

Mr. McCLANAHAN.—Q. \$246.

A. If the ship had been cleaned and painted on either the docks in San Francisco at the prevailing rates it would be \$246.

Q. For the labor? A. Yes.

Q. And that would be the prevailing rate at the time she was cleaned and painted?

A. That is about what it amounted to.

Q. You remember, do you, Mr. Christy, the cleaning and painting of the "Hilonian"—don't you?

(Testimony of James R. Christy.)

A. I remember she was cleaned and painted; that is all.

Q. At your works? A. Yes, sir.

Q. She was cleaned and the painting was finished, was it not, the last day of her being in the drydock, necessarily?

A. Well, it may have been on the last day. I could not testify [1125—1037] to that now.

Q. Can't you testify that it would necessarily have to be on the last day? A. Not necessarily, no.

Q. Why, would not the anti-fouling paint, the life of it, be destroyed if it was exposed to the air?

A. The ship as a rule is painted before and stands. Now, it is possible that this ship was painted before. I do not know that she was, but if we were preparing to pull the ship into the water, we would naturally paint her in advance to have her ready to go into the water, so that would not be the cause of delay.

Q. Isn't it good workmanship to finish the painting just before you put her into the water?

Mr. FRANK.—We object to that; it depends on the special conditions prevailing at the time.

Mr. McCLANAHAN.—Let the witness testify, Mr. Frank.

Mr. FRANK.—Is that a catch question? I did not know that; if that is so—

Mr. McCLANAHAN.—It is a question that does not require any assistance from you.

Mr. FRANK.—I am sure I cannot assist him on a technical matter of that kind, but if it is a catch question, then I am glad I unwittingly exposed it.

(Testimony of James R. Christy.)

Mr. McCLANAHAN.—There is nothing catchy about it at all. Mr. Christy knows or does not know whether it is good workmanship to paint the ship the last thing and put her in the water as soon as possible after the painting is finished. What is your answer? [1126—1038]

A. The last coat of paint on a ship's bottom it is considered advisable to put on not over twenty-four hours before she goes in the water.

Q. That is because of the anti-fouling paint losing its life by exposure to the air, is it not?

A. That is the reason.

Q. Now, you testified on your direct examination about this work on the rudder. Did you have anything to do with the work on the rudder?

A. I distinctly remember being called down to the dock and asked my opinion as to the condition of that rudder.

Q. Who were you called by, Mr. Christy?

A. My recollection is this, that I was called by Mr. Saunders, Mr. Putzar and Mr. Klitgaard. There was a general discussion on this matter about additional work.

Q. Was not Mr. Wilhelmson there?

A. I could not say.

Q. You would not want to say he was not?

A. I would not testify he was there or not.

Q. Have you stated the time when you went down there? A. No, I did not.

Q. Did you say morning? A. No, I did not.

Q. You could not say morning or afternoon?

(Testimony of James R. Christy.)

A. I did not state the time.

Q. Do you know?

A. My understanding, Mr. McClanahan, is when a ship is in the drydock it is quite important to hurry the work on her as the expense is heavy; and we were hurrying the work on the bottom of the ship as rapidly as possible to complete the lining of the stern bearing and painting the ship so as to get her into the water. [1127—1039]

Q. Isn't the rudder and the propeller the first thing that you examine after you take a ship out of the water?

A. Yes; the rudder was examined and they were told of its condition.

Q. Just as soon as she was taken out of the water?

A. As soon as it was discovered, shortly afterwards, and this discussion was carried on for several days, whether or not they would do the work, or would not.

Q. Discussion between whom?

A. The Matson Company.

Q. Between whom?

A. My recollection is that it was Mr. Putzar and Captain Saunders that was discussing this detail.

Q. Was not Klitgaard there?

A. Klitgaard may have been there, but Mr. Putzar's opinion was more in evidence than anyone else's at the time. I remember that very clearly.

Q. What was the opinion of Mr. Putzar?

A. He was very strong against the ship going into

(Testimony of James R. Christy.)

the water in the condition in which she was; he said it was unsafe.

Q. What was the opinion of Mr. Saunders?

A. The conclusion rendered by all hands was that the work was necessary to be done and they done the work; pending the conclusion nothing was done.

Q. I am trying to reach the situation through the discussion during the indecision; what Putzar thought you have already given.

A. He insisted the ship was unsafe in its present condition.

Q. What was Captain Saunders' opinion on the start?

A. I do not remember Captain Saunders' opinion on that matter. [1128—1040]

Q. Do you remember what Wilhelmson's opinion was? A. I do not.

Q. Do you remember what Klitgaard's was?

A. I do not. I remember my own opinion, that it was the ship was in bad shape.

Q. So you do not know why or you do not know where the difference of opinion existed that caused this delay?

A. I do not. It was possible they may have called in the insurance representative or the United States Government inspector; they may have decided the matter for them.

Q. You think—

A. (Contg.) The Government inspectors inspect the bottoms of all those ships, you know, when they are on the dock.

(Testimony of James R. Christy.)

Q. You think this discussion, however, extended for two or three days? A. Yes; for several days.

Q. For several days? A. Yes, sir.

Q. You know that you were given directions to do the work and you did it expeditiously?

A. Yes, sir.

Q. Do you remember how long it was after?

A. Usually, Mr. McClanahan, the United States Government is notified of the docking of any ship, and they send an inspector there to look it over, and the report of the inspector frequently guides the owners in what work they do, also the representatives of an insurance company, and they may have been waiting for the insurance company's representative or the United States Inspector to direct them as to what they wanted to do. That might have accounted for their delay in reaching their conclusion.

Q. Do you remember what was the stage of the work on the [1129—1041] "Hilonian," aside from this rudder work, at the time you were called in to this discussion and your opinion was asked in regard to it?

A. Yes—at the time that I was called into it?

Q. Yes. Was it the first day she was on the dock? That is the day it was discovered, of course?

A. The work was discovered the first day she was on the dock, I think.

Q. Were you called in then?

A. Or the second day. I am not positive.

Q. Were you called in then?

A. But the conclusion was not reached until later.

(Testimony of James R. Christy.)

Q. Several days. But were you called in when the work was first discovered?

A. I do not think so. I do not think they asked my opinion until afterwards.

Q. Until later?

A. I know that the matter—I do not think they asked my opinion until they had discussed it some time.

Q. Do you know how long after your opinion was asked that the work was turned over to you?

A. I could not tell you that now.

Q. Did you have anything to do with the work after it was commenced?

A. In what way do you mean?

Q. Did you know—

A. The form of work—you mean regarding its details?

Q. Yes.

A. The foreman of the job would carry it on.

Q. Don't you know how the boring-bar used was installed?

A. I know there was a boring-bar installed; how it was installed I could not say. [1130—1042]

Q. You do not know?

A. The same as all other boring-bars.

Q. Do you know what kind of boring-bar was used?

A. The bar that is usually used is a straight boring-bar, driven by a rotary-head.

Q. Do you know its diameter? A. I do not.

Q. Do you know how it was driven?

(Testimony of James R. Christy.)

A. It was probably driven with an air motor, an air engine.

Q. You do not know, though?

A. I am not positive.

Q. Do you know whether the boring-bar was used continuously through all the gudgeons?

A. I could not tell you that now, it is too long ago.

Q. You do not know how it was put in place?

A. How it was put in place?

Q. Yes.

A. I know how a bar has to be put in place; there is no other way of putting it in place, providing bearings for it to run in; that is the only way a bar could be put in place; it has to be cut above a boring, the gudgeons that you are boring.

Mr. FRANK.—I would like to know the materiality of this examination. It may seem interesting, Mr. McClanahan.

Mr. McCLANAHAN.—Isn't the examination perfectly proper as cross-examination?

Mr. FRANK.—No, not unless it has bearing on the case. As I see it now it is absolutely immaterial, and that is the reason I want to know what the purpose of it is.

Mr. McCLANAHAN.—Mr. Christy was called here, I believe, to testify in regard to this work.
[1131—1043]

Mr. FRANK.—Was he?

Mr. McCLANAHAN.—As I understood his evidence on direct examination, he was called to testify that the boring of these gudgeons necessitated the

(Testimony of James R. Christy.)

delay of the ship at the dock.

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—I want to claim the privilege of cross-examination of him on the boring of the gudgeons.

Mr. FRANK.—He did not testify that the boring itself delayed the ship; he testified she was delayed because of the indecision of the Matson Navigation Company as to what they would do with respect to repairing the rudder. That is what he testified to.

Mr. McCLANAHAN.—I consider it proper cross-examination.

Q. Do you know how the cutters were fed on this particular job? A. I do not.

Q. Do you know how many gudgeons on this particular job were bored simultaneously?

A. I do not.

Q. You did not see the work at all going on?

A. I saw the work in a general way going on. It was three years ago since it was going on, and I have not had occasion to consider it since. I have not thought of the "Hilonian" since.

Q. What is your answer to this question: What was the size of the cut and the depth of the feed?

A. I would refer you to the men on the job.

Q. You don't know.

A. I do not handle that; I had a man in charge of the work.

Q. Who was he, Mr. Wilhelmson?

A. Mr. Wilhelmson, the general foreman of the United Engineering Works. [1132—1044]

(Testimony of James R. Christy.)

Q. He had charge of that, did he?

A. The general foreman in the yard.

Q. Well, we will have to get our information from Mr. Wilhelmson. Is there in your office any record kept of contract work?

A. You asked me that question about an hour and a half ago, and I think I gave you an answer to that.

Q. What was your answer?

A. You can see from the record.

Q. You can't remember what your answer was?

A. I don't know as there is any occasion to repeat it, is there?

Q. Well, for my convenience, merely as a courtesy to me, will you? A. I suggest the clerk read it.

Q. Then you decline to answer the question?

A. I think it is a repetition. I do not see any occasion to repeat myself.

Q. Then you decline to answer the question, do you? A. I have already answered your question.

Q. And you decline to answer it again?

A. I decline to be made a damn fool of.

Q. Do you know when the rebushing of the stern bearing was commenced on the "Hilonian," Mr. Christy? A. When she was on the dock.

Q. At what stage of the time?

A. After the Matson Navigation Company decided to do it.

Q. After they decided to do it? A. Yes, sir.

Q. The rebushing of the stern bearing?

A. No; the stern bearings. The gudgeons you spoke of.

(Testimony of James R. Christy.)

Q. I beg your pardon. You are not listening to my questions. Read the question to the witness.
[1133—1045]

A. Immediately on the ship getting dry on the dock.

Q. You know that, do you? A. I do.

Q. You, prior to this job on the "Hilonian," had always done the work of the Matson Navigation Company, had you not? A. You mean me, personally?

Q. Well, your concern.

A. We had done work for the Matson Navigation Company, not all of their work; no, sir.

Q. You yourself were perfectly familiar, were you not, with the "Hilonian" machinery?

A. In a general way.

Q. Hadn't you made a detailed examination of it but a short time before this work was done?

A. Not a detailed examination; no, sir.

Q. You made an examination, though?

A. I made a trip on the boat from the quarantine station to the wharf at Howard Street at the request of Captain Saunders, and the engines were in operation, but it was no detailed examination whatever.

Q. What kind of an examination was it?

A. I walked through the engine-room while the engines were in operation and observed the conditions that existed aboard the ship.

Q. Did you give an opinion as to the condition of the machinery? A. I may have.

Q. What was it?

A. That she was badly run down, but not danger-

(Testimony of James R. Christy.)

ous to make another voyage.

Q. Was it your opinion that led to the repairs on the "Hilonian"? A. No, sir. [1134—1046]

Redirect Examination.

Mr. FRANK.—Q. Of course, by walking through the vessel in the manner you have just indicated, you could not be able to see any of the defects that exhibited themselves when the engines were dismantled?

Mr. McCLANAHAN.—I object to that as suggestive and leading.

A. Absolutely, no.

Mr. FRANK.—Q. Do you know, Mr. Christy, whether or not the rudder job was the last job performed on her while she was on the dock?

A. That is my belief; yes.

Q. And previous to that she had been repainted and intended to be relaunched?

Mr. McCLANAHAN.—I object to that as leading and suggestive.

A. Our intention would be to have the ship completed at the time her stern bearing was done, and put her in the water in case the other work was not done. Now, it may be possible that the final coat was held off. I do not know. I do not remember whether we held that off until the other work was done; if we did, it would be at the suggestion of the owners to do that, to prevent the paint fouling—the owners' representatives I refer to.

Mr. FRANK.—Q. I understood you to say on your cross-examination that if you had a contract on cer-

(Testimony of James R. Christy.)

tain specifications you would not depart from those specifications except on the order of the owner, even though the specifications were inadequate for the purpose of the job; is that it?

A. That is it, or the representatives of the owners.

Q. Well, that is the owner.

A. That is what I would infer. [1135—1047]

Q. Now, you spoke in that connection that it would have been unwise to have done the work of the "Hilonian" according to the list of work that was furnished to you originally. What do you mean by "unwise"? Explain yourself.

A. I think I have explained in the record there, Mr. Frank, that I have said it would be spending money uselessly in doing work that was unnecessary, and it would be unwise to leave necessary work undone.

Q. That is other work developed and the manner of doing the work was changed because it would not have made it a proper job?

Mr. McCLANAHAN.—I object to the question as leading and suggestive.

A. That is it exactly.

Mr. FRANK.—Q. Those necessities for a change or deviation from the specifications, how would they be ascertained, whether or no they would develop as the job progressed.

A. How would it be? I do not understand your question.

Q. Read the question.

(The last question repeated by the reporter.)

(Testimony of James R. Christy.)

A. Whether or not they would develop?

Q. Yes, whether the necessity would develop as the job progressed.

A. Why, the experience of the men who were in charge of the work would guide them in this as to the condition of the work.

Q. Yes, but what I am getting at is—I am trying to get it without inflicting upon Mr. McClanahan the odious condition of suggestion—

Mr. McCLANAHAN.—I think I was very considerate in not objecting to that question. I think it was suggestive and leading. [1136—1048]

Mr. FRANK.—Q. What I am trying to get at is this, whether or not those matters would develop on the dismantling of the machinery which would not be seen before the dismantling of the machinery.

A. That is the reason exactly, Mr. Frank; that is the reason.

Q. The work as specified would not answer the purpose; is that it? A. Yes, that is it exactly.

Q. During your cross-examination you spoke frequently of a list of work that was furnished you and Mr. McClanahan used the word “specifications.” Now, what is the distinction that you have in mind between the list of work that was furnished you and specifications?

A. The list of work is a list of the work to be carried out on the job; as predetermined by some man who has drawn this list of work up; the specification, as I understand Mr. McClanahan to use it, would refer to some part of some given agreement.

(Testimony of James R. Christy.)

Q. Now, I understood you to say that after work had been performed that the record of it was transformed into a list of work as done of the nature as shown in the bill on this. A. Yes, sir.

Q. And that is the record that you keep?

A. That is the record of the job.

Q. When the work is progressing as a rule or as a custom in the manner of performing the work, state whether or not all difficulties are not agreed upon and settled as the work progresses, the difficulties that arise? A. Repeat the question, please.

[1137—1049]

(The last question repeated by the Reporter.)

Q. Whether or not they are settled between the parties?

A. That is why you have a man in charge of the work, to settle those things.

Q. To settle them? A. Yes, sir.

Q. There is no occasion, then, to keep specification as specifications afterwards?

Mr. McCLANAHAN.—I object to that question as suggestive and leading.

A. No, sir.

Mr. FRANK.—Q. Do you remember ever having been drawn into a dispute of this kind before after the work has been completed?

Mr. McCLANAHAN.—I object to that as immaterial.

A. No, sir—you refer to—do I understand that as bearing on the Matson Navigation Company or anyone else?

(Testimony of James R. Christy.)

Mr. FRANK.—Q. The Matson Navigation Company or anybody else.

A. I have had a dispute of this character with Mr. Diericx previously.

Q. Well, with anybody else besides Mr. Diericx?

A. No, sir.

Q. It is a very common thing to have disputes with Mr. Diericx, is it not?

Mr. McCLANAHAN.—I object to that.

A. We have had a dispute before.

Mr. FRANK.—Q. I understood you to say that it is not the practice then to keep these lists of work or specifications.

Mr. McCLANAHAN.—I object to that as calling for a repetition of the witness' testimony. [1138—1050]

Mr. FRANK.—Q. Is that the fact, then?

A. The completed list of work is the record that is kept.

Q. Is the only record that is kept?

A. Yes, in my yard.

Q. When in answer to Mr. McClanahan's question upon the subject you stated that you never heard of any contemplated changes, what did you understand the question to be?

A. I understood that to be that when the list of work came over to the yard, was there any contemplated changes at that time. That is what I understood it to mean. Is that what you mean, Mr. McClanahan?

Mr. McCLANAHAN.—Yes.

(Testimony of James R. Christy.)

Mr. FRANK.—Q. That is what you understood him to mean.

A. At the time of the arrival of the ship there, whether it was contemplated not to do as the list was, I had heard nothing. That was developed as they got into the work; as they stripped the ship down they found it different from what they had anticipated.

Recross-examination.

Mr. McCLANAHAN.—Q. On Mr. Frank's re-direct examination you have given your understanding of the difference between the list of work as used in your testimony and specifications as used by me. You remember that, do you?

A. Yes, sir, I remember it.

Q. Am I to understand from your explanation that you never had any specifications for "Hilonian" work?

A. My understanding of that is this, Mr. McClanahan, that you are attempting to make me state that I had a contract to do certain repairs on the "Hilonian," and I am stating that I [1139—1051] had no contract that I know of. That is my answer to it. Now, as I understand your statement, you are referring to specifications as a part of the contract.

Q. Now, eliminating what you infer me to mean, there is no difference between a list of work and specifications? A. Eliminating what you say?

Q. Eliminating any inference that I am trying to tie you up to a contract by the use of the term specifications, there is no difference between a list of work

(Testimony of James R. Christy.)

and specifications?

A. The list of work could be made to cover the same ground as the specifications.

Q. There is no difference, is there?

A. There may be a technical difference.

Q. What is it?

A. I am not lawyer enough to say.

Q. You mean a legal difference?

A. A legal difference, that is what I mean.

Q. But from the standpoint of a practical business man, there is no difference? A. No, sir.

Q. Now, Mr. Christy, you have said that you would furnish me with the job number that was attached to that original list of work; and I will relieve you of doing that provided Mr. Frank will do it for you.

A. Well, he said he would, I believe.

Mr. McCLANAHAN.—Is that understood, Mr. Frank?

Mr. FRANK.—Yes. I will furnish—just one moment; I will furnish the job numbers.

Mr. McCLANAHAN.—I am referring to one. I am referring to the job number that Mr. Christy says was put on to this original list of work. [1140—1052]

Mr. FRANK.—Well, now, let us find out what the fact is. I am satisfied that your construction of that is wrong; but there is a difference between us.

Mr. McCLANAHAN.—There is no room for any difference.

Mr. FRANK.—That just shows that there is.

(Testimony of James R. Christy.)

Mr. McCLANAHAN.—Q. Mr. Christy—

Mr. FRANK.—Wait a moment. I will examine him on the subject.

Mr. McCLANAHAN.—You claim the right to examine him?

Mr. FRANK.—Yes.

Q. With reference to this original list that you spoke of, was there one or more different job numbers attached to that original list?

A. Oh, probably a good many numbers. It was cut up in different numbers. I can't tell you that without looking up the information. This was long ago. That would be the practice probably, to cut it up—I do not remember. That is, whatever would be the most practical way of handling it through the shops, to have less confusion in keeping records of them.

Q. When you say cutting it up, do you mean that the entire list as it came in would be cut, or that as the changes were made there would be changes added under the original number?

A. They would go in on the original number, yes.

Q. That is what I am trying to get at.

A. They would go in, the changes would go in on the original number.

Q. The changes would go in on the original number itself.

A. Yes. But what I mean by cutting it up, that a portion of the job, for instance, it was possible that there might be the taking of anything important by one number; possibly that might be the case. [1141—1053]

(Testimony of James R. Christy.)

Q. You don't know whether that was the case?

A. I don't know whether it was the case.

Q. Will you look it up?

A. I can have it looked up for you.

Mr. McCLANAHAN.—Q. Mr. Christy, I do not want any confusion about what I want. I am not asking you for the numbers that may have been subsequently added to the original list. I want the number that was placed on the original list when it first came into your hands, the first number given to that job. A. Yes, I understand.

Mr. FRANK.—In addition to that we will give you the other work that was done under the original number that is not on the original list. I do not want to get this record confused. You can very well confuse it if you limit us in the manner in which you desire.

Mr. McCLANAHAN.—I am willing to take anything you give us, provided I get what I want; but I want that original number; that is all at present. It is understood Mr. Frank will furnish that to-morrow.

Mr. FRANK.—Yes—I will furnish it as soon as I can get it.

Mr. McCLANAHAN.—Q. When will you get this number, Mr. Christy?

A. Well, I won't get over to the yard until to-morrow.

Q. Can you telephone the number over to Mr. Frank? A. Not very well.

Mr. FRANK.—I will get it for you as quick as I can; you possibly will get it to-morrow.

(An adjournment was here taken until to-morrow, Thursday, September 21st, 1911, at 10 A. M.)
[1142—1054]

Thursday, September 21st, 1911.

(At the request of the libelant an adjournment was here taken until Friday, September 22d, at 10 A. M.)

Friday, September 22d, 1911.

(At the request of the libelant a further adjournment was taken until Wednesday, September 27th, at 10 A. M.)

Wednesday, September 27th, 1911.

[Testimony of Marcell Ferro, for Libelant.]

MARCELL FERRO, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Ferro, in August and September, 1909, were you in the employ of the United Engineering Works? A. Yes, sir.

Q. In what capacity? A. Helper.

Q. Were you in the engine-house? A. Yes, sir.

Q. Doing what?

A. Doing night engineer's work.

Q. During that time did you keep a record of your time on the time-cards of the company?

A. Yes, sir.

Q. I hand you now a series of cards dated respectively August 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, September 1st, 2d, 3d, 5th, 6th, 7th, 8th, 9th 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, and 21st, and ask you if those are the cards made out by you at that time for the time

(Testimony of Marcell Ferro.)

worked by you in the engine-room of the United Engineering Works. A. Yes, sir, they are. [1143—1055]

Q. Just look them over again, you have looked them over once? A. Yes, sir.

Q. I understand you that this was night work, during night-time. A. Yes, sir.

Q. Where did you get your job numbers from, Mr. Ferro? A. From the timekeeper in the office.

Q. I notice on some of these cards that there are changes in the job number? A. Yes, sir.

Q. How are those changes made?

A. I would get the number from the timekeeper going out in the evening, and would probably make a mistake in the number, and he would correct it for me at the window when I would turn in my time-card.

Q. Correct it in your presence? A. Yes, sir.

Q. At the time these cards were made out and turned in state whether or not you knew them to be correct. A. Yes, sir, they were.

Q. Do they indicate the exact number of hours worked? A. Yes, sir.

Q. What was the nature of the work that you were performing? A. At night?

Q. Yes. A. Engineer's work.

Q. That is running the engine? A. Yes, sir.

Q. That gave the power?

A. Yes, sir, that gave power to the ship, the lights.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked Ferro Time-cards No. 1.

(Testimony of Marcell Ferro.)

Mr. McCLANAHAN.—We object to the offer and to the offer of each of the cards on the ground that they are incompetent, irrelevant and immaterial, hearsay, self-serving and not binding [1144—1056] on the respondent.

(The cards are marked “Ferro Time-cards No. 1.”)

Mr. FRANK.—I will offer the clock cards of September 11th, September 25th and September 28th, and ask that they be marked Ferro Clock Cards No. 1.

(The clock cards are marked “Ferro Clock Cards No. 1.”)

Cross-examination.

Mr. McCLANAHAN.—Q. Do you remember, Mr. Ferro, the occasion of the “Hilonian” being at the works of the United Engineering Works in August and September, 1909?

A. Do I remember what?

Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. Yes, sir.

Q. What other steamers were there at the same time, or during any portion of the time?

A. I believe the steamer “Plant” was there at the time; I believe so.

Q. Was not the steamer “Buckman” there also?

A. No, sir, not that I remember of.

Q. Let me refresh your memory, if I can, by asking you to look at your time-card under date of August 31st, and answer the question. Was not the

(Testimony of Marcell Ferro.)

steamer "Buckman" there also?

A. She must have been there if I put it down, because that is my handwriting.

Q. So that the "Buckman" was there as well as the "Plant," was she not? A. Yes, sir.

Q. Was not the steamer "Iaqua" there during that time? A. Yes, sir. [1145—1057]

Q. She was there? A. Yes, sir.

Q. Mr. Ferro, who was the engineer in charge at that time? A. At night?

Q. Yes. A. I was.

Q. Were you the only man on watch?

A. Yes, sir.

Q. This plant, in your charge at night, was run for the purpose of supplying light to the ships on which you were making repairs, was it not?

A. Yes, sir.

Q. And when no work was being done on the ships at night, of course, you did not run the power plant?

A. No, sir.

Q. And you only ran the power plant for the time that the work was going on? A. Yes, sir.

Q. So that if there was two hours' night work on a ship, and that ship was the only one at the yards at the time, and you were supplying light for the work you would supply two hours of light for that ship, would you not? A. Yes, sir.

Q. That was the sole purpose of your running the power plant at night? A. Yes, sir.

Q. I hand you, Mr. Ferro, your card of August 26th, and would like to have you explain the entry

(Testimony of Marcell Ferro.)

there with reference to the hours worked. There are two numbers on the card, as you will see, one is 5295 on which you have charged nine hours' straight time and six hours' overtime. A. Yes, sir.

Q. And the other is 5316 on which you have made a charge of nine hours' straight time and six hours' overtime. Will you explain to which number that charge was made?

A. Well, I put down on my card the actual hours I worked at night, and if there was any other job running in the yard besides the job I was working for, I put the numbers for that [1146—1058] job and the hours I have run for that job down also.

Q. You don't mean by that you worked double straight time and double double time? A. No, sir.

Q. That card means six hours was all that you worked and all you were entitled to?

A. Yes, sir.

Q. Although you have made a double entry on your time? A. Yes, sir.

Q. You do not know to which job number that time was charged? A. No, sir.

Q. That is work done in the office? A. Yes, sir.

Q. That entry simply means that the power plant for that night was run in the interest of both those ships for that length of time?

A. Yes, sir, they both were working for that length of time.

Q. For both those ships? A. Yes, sir.

Q. Now, you say that the cards represent the actual time you worked? A. Yes, sir.

(Testimony of Marcell Ferro.)

Q. Don't you remember at that time 8½ hours was a day's work?

A. I went to work at half-past four and quit at half-past seven, and seven o'clock sometimes. I don't know what they worked on the outside. I don't know what they done.

Q. You are a member of the union?

A. I don't belong to any union.

Q. And did not at that time? A. No, sir.

Q. What time do you say you commenced work?

A. 4:30.

Q. And you would quit when? A. 7 or 7:30.

Q. That would constitute your longest night's work? A. Yes, sir.

Q. I hand you your card of August 24th, calling your attention to the red numerals on the left-hand side of the card, and ask [1147—1059] you what they are, the figures in red ink.

A. That is when I did not get the number in the evening when I was going to work. When I would come in the morning I would get it from the time-keeper and he would mark it down right in front of me.

Q. What does 244 on that card mean?

A. That is day work.

Q. What job does that mean?

A. In the shop; in the yard.

Q. Did you do any day work?

A. Yes, sir; when they first started in; the first job that the "Hilonian" started in.

Q. In running the power-house? A. No, sir.

(Testimony of Marcell Ferro.)

Q. That 244 does not refer to running the power-house? A. No, sir.

Q. Nor does the one hour on that card refer to running the power-house? A. No, sir.

Q. That is outside work? A. Yes, sir.

Q. But the 14½ hours charged to 5295 was running the power-house?

A. Yes, sir, was running the power-house.

Q. Mr. Ferro, I call your attention to your card of August 27th and ask you if you can explain the entries there under No. 5316, which is the number for the steamer "Plant," I take it. A. Yes, sir.

Q. Take the first entry 5316, "12 hours lights."

A. Yes, sir.

Q. What does that mean?

A. That is running the power for the lights.

Q. Burning the power for the steamer "Plant" for the lights? A. Yes, sir.

Q. What is this "9½ hours air-compressor," what does the "9½ hours air-compressor" mean?

A. For the steamer "Plant." [1148—1060]

Q. Running the air-compressor at night?

A. Yes, sir.

Q. And the entry under 5295, the 9 hours straight and the 6 hours overtime, was for lights for the "Hilonian"?

A. For lights for the "Hilonian," yes, sir.

Mr. FRANK.—I might save you some cross-examination there, Mr. McClanahan, by relieving you of the anxiety that you have been charged for those items that have been used on the other steamers.

(Testimony of Marcell Ferro.)

Mr. McCLANAHAN.—How are you going to relieve me from my anxiety?

Mr. FRANK.—You will not find it in your charges.

Mr. McCLANAHAN.—Q. I call your attention to your card of August 31st, and ask you if your explanation of your card of August 27th, with reference to the steamer “Plant” applies also to this card of August 31st, with reference to the steamer “Buckman”?

A. No, sir.

Q. It does not? A. No, sir.

Q. What does the 14 hours charged to the steamer “Buckman,” on your card of August 31st, under No. 5336, mean. Lights, does it not?

A. Yes, sir, lights and air.

Q. Not lights and air for 14 hours?

A. 14 hours the lights, and 12 hours the air-compressor.

Q. Is not that your explanation of the other cards?

A. Yes, sir, the same as on the other cards.

Q. And the charge to 5295—which was the “Hilonian”?

A. Yes, sir.

Q. —was the lights? A. Yes, sir, the lights.

Q. I will call your attention to your card of September 1st, and ask you what the charge for 7½ hours under No. 5320, [1149—1061] is for.

A. Running the air-compressor for steamer “Iaqua.”

Q. That was done at night, was it? A. Yes, sir.

Q. I call your attention to your card of September 3d, and ask you what the job number 5332 in red ink stands for.

(Testimony of Marcell Ferro.)

A. I don't remember what boat it was running for. Unless it was an extra number on the "Hilonian" job, I don't know.

Q. If 5332 is not a "Hilonian" job number, it is the job number for some other ship that was there at that time? A. It must be.

Q. And that 12 hours represents the time used on the air-compressor at night? A. Yes, sir.

Q. The same power was utilized in the air-compressor work as in running the lights, was it not?

A. No, sir.

Q. Not the same power? A. No, sir.

Q. You had the same engine, did you not?

A. Yes, sir.

Q. One engine? A. Just one engine.

Q. That engine ran the lights and the air-compressor, did it not? A. No, sir.

Q. Explain that.

A. The power runs by a different power, altogether separate. The air-compressor is separate from the dynamo. They are two different engines.

Q. Have you two engines? A. Yes, sir.

Q. One drives the dynamo? A. Yes, sir.

Q. And one drives the compressor?

A. Yes, sir.

Q. I show you your card of September 21st, and ask you what the entry on that card at the bottom means, 15 hours charged to lights.

A. It must mean the same as all one and the same thing, just the lights and overtime. I put the lights

(Testimony of Marcell Ferro.)

down here, [1150—1062] and overtime up there (pointing).

Q. You have got first an entry under 5295 of 9 hours straight time, and next an entry of 6 hours overtime?

A. I don't put this down. I put this down, 9 and 6.

Q. I have not referred to anything except what you have put down, 9 and 6?

A. I did not put none of this here. (Pointing.) This I put down, the "15" with the ring around it.

Q. Your explanation of the 15 with a ring around it is, that it is simply your aggregate of your 9 and 6 hours time? A. Yes, sir.

Mr. McCLANAHAN.—I think I will have to see the time-book, Mr. Frank.

Mr. FRANK.—Very well. The book is not here now, but we will send for it.

(Thereupon the witness is temporarily withdrawn.) [1151—1063]

[Testimony of John Healy, for Libelant.]

JOHN HEALY, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Healy, you were a watchman in the United Engineering Works in August and September, 1909? A. Yes, sir.

Q. As such watchman did you attend to the delivering of stores in the night-time from the storeroom?

A. Yes, sir, that was my job to attend to the storeroom, and watching.

Q. When men come for material from the store-

(Testimony of John Healy.)

room during the night-time how did you determine what jobs they were working on?

A. Well, I would ask them what they were working on, and they would tell me what it was numbered. If they did not know the job number I had the specifications right there, and the job number was written on it.

Q. Would you consult the list of job numbers?

A. Yes, sir, I would look it over; it was the only job that they were working on.

Q. Now, I show you some stock cards, Mr. Healy, being part of Roberts Stock Cards Numbered 24, Watchman, and numbered A2274, A2297, A2351, A2429, A2723, A3231, A3201, and part of Roberts Stock Cards Numbered 23, and numbered A6477, A6479, and A6495, and ask you whether or not those are cards for material issued by you from the shop at the times indicated on the several stock cards.

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Yes, sir, I wrote all those and issued the stock.
[1152—1064]

Q. You said just now when we were going over them together that 2351, the first item there, is not in your handwriting. Look at it again and see whether it is or not. (Handing.)

A. No, that is not my handwriting.

Q. Not your handwriting? A. No, sir.

Q. Do you know whether you issued it at that time? A. Which?

Q. These articles.

(Testimony of John Healy.)

A. I know what is in my writing there, that I issued all of them; but the order-book was laying on the desk and the chances are that the other watchman gave the top order out.

Mr. McCLANAHAN.—I will have to ask that the reply of the witness, as far as it refers to the other watchman, be stricken out as hearsay.

Mr. FRANK.—Q. And the card 2723, is there any part of that that is not in your handwriting?

A. No, that is all mine.

Q. That is all in your handwriting?

A. Yes, sir; that is all in my handwriting.

Q. The material on those cards, then, you issued to the men who applied for them at the night-time, for these particular numbers? A. Yes, sir.

Q. I mean the job numbers.

A. Yes, they gave me the job number, or if they did not give me the job they would tell me what they were working on, and I would look it up on the specification and put it down.

Q. These numbers were included, were they not, 6477, 6479 and 6495—you looked these over, did you? [1153—1065] A. Yes, that is all mine.

Q. I now show you A3240 of Nelson Stock Card No. 2. A. Yes, sir, that is all mine.

Q. I now show you A3264 of Stephen Cronin Stock Card No. 1. A. Yes, that is all mine.

Q. I now show you A3212 of Roberts Exhibit Stock Card No. 22. A. Yes, sir, that is all mine.

Q. After you issued this material and wrote out the stock cards, what did you do with the stock cards?

(Testimony of John Healy.)

A. Left them on the storekeeper's desk in the book.

Q. In the morning when you left did somebody come and relieve you?

A. I know the men came to work and Mr. Roberts—we always locked the storeroom, and he was the only one that had the key, and he opened it and the book was on the desk.

Mr. McCLANAHAN.—Q. What is that?

A. We left the book on the desk as we got it at night, and we would lock the door, and he was the only one that had the key. I had it and my partner and Mr. Roberts.

Mr. FRANK.—Q. And your partner?

A. There was two of us watching. Bob Campbell was the other one.

Mr. FRANK.—That is all.

Mr. McCLANAHAN.—No cross-examination.

Mr. McCLANAHAN.—I want, Mr. Frank, to know whether you have for me the original number placed by Mr. Christy on the original specifications when first received by him, and which you said at the last adjournment you would furnish to me.

Mr. FRANK.—The report that I have received is that after a [1154—1066] careful search through all their records they find no specifications with any number on them. The only numbers that they have are the list numbers and the original number given to the job. If you want the original number given to the job I can give that to you.

Mr. McCLANAHAN.—I would like the original

number given to the job when originally brought into the office.

Mr. FRANK.—The original number given to the job when it was originally brought into the office was 5295.

Mr. McCLANAHAN.—We will admit that the items of material set forth in schedule 2 and the first part of schedule 3—not the second page of schedule 3—were furnished to the “Hilonian.” We cannot admit the number of hours of work alleged to have been performed. We admit the material was furnished but we do not admit the value of the labor and material.

(A recess was taken until 2 P. M.) [1155—1067]

AFTERNOON SESSION.

[Testimony of Marcell Ferro, for Libelant (Recalled).]

MARCELL FERRO, recalled, cross-examination resumed.

Mr. McCLANAHAN.—Q. You are perfectly sure that the time placed by you on these cards was the actual time worked? A. Yes, sir.

Q. How many actual hours of work did you work before you had any overtime—before you were entitled to overtime?

A. A day's work. It would consist of a day's work, 8½ hours, I think, we were working at that time, or 9. I don't remember which it was.

Q. Well, suppose it was 8½ hours.

A. The rest of that was overtime then.

(Testimony of Marcell Ferro.)

Q. All of your cards here show 9 hours as the straight time. If the day was an 8½ hours day at that time, how do you account for the fact that the card shows 9 hours? A. I put it down, 9.

Q. That is, you worked the full day of 8½ hours and ½ hour more? A. Yes, sir.

Q. And then you got overtime after that?

A. Yes, sir.

Q. Why did you not get overtime after you worked 8½ hours, if that was the day's time?

A. I don't remember if it was 8½ or 9 hours at that time.

Q. Assume it was 8½ hours. Assume that that was a working day at that time. Why did you put down the other half hour?

Mr. FRANK.—That is not a fair question. He cannot answer that question by making an assumption that may or may not be the fact. That is not a fair question at all. It may be that 9 hours was the day for him. [1156—1068]

Mr. McCLANAHAN.—I do not want to ask the witness an unfair question.

Mr. FRANK.—You can see for yourself that it is not a fair question.

Mr. McCLANAHAN.—Q. I want to have an explanation why this 9 hours was put down if the working day was 8½ hours. Can you explain that?

A. I worked the full length of time from 4:30 to 7:30, whatever time it was. I worked right straight through.

Q. That is, you paid no attention to the 8½ hours?

(Testimony of Marcell Ferro.)

A. No, sir; we had nothing to do with that at all. I worked right straight through.

Q. So that your cards showing 9 hours' straight time represented the actual 9 hours worked by you?

A. Yes, sir.

Q. And if there was any other time than that above the 9 hours it was overtime? A. Yes, sir.

Q. Do you remember the rush job on the "Buckman" when the "Hilonian" was there?

A. No, sir.

Q. Don't you remember running the power-house at night for the shop while the "Buckman" was over here on this side, on a rush job?

A. Not to my knowledge. I don't remember running the power for the "Buckman" while the "Buckman" was on this side at all.

Q. You do not remember? A. No, sir.

Q. I see all this time charged to the "Hilonian" is charged under job No. 5295; who gave you that job number? A. The timekeeper.

Q. This number 244 on your card of August 24th, is a shop number, is it?

A. Yes, sir, it was out in the yard; doing yard [1157—1069] work.

Q. And on that day, August 24th, you worked actually 24 hours?

A. I started to work nights that day for the "Hilonian."

Q. Answer my question. You worked 24 hours actual work on that day? A. Yes, sir.

Q. And 14½ hours of that was overtime charged

(Testimony of Marcell Ferro.)

to the "Hilonian"? A. Yes, sir.

Q. You are quite clear, are you, Mr. Ferro, that when work at nights ceased on the ship then your work ceased in the power-house? A. Yes, sir.

Q. That is, when they were not working on the ship they could not use your power? A. No, sir.

Redirect Examination.

Mr. FRANK.—Q. You have spoken, Mr. Ferro, of the "Plant," of the "Buckman," and the "Iaqua." Do you remember whether you furnished light to those vessels? A. No, sir.

Q. Do you know whether or not they had their own engines, and their own light?

A. I could not say. I was not down in that part of the yard to see whether they had their own lights or not.

Q. You do not know whether you furnished light to them there?

A. The electrician generally tells me when he is going to hook in any light, for any other ship in the yard. He never came down and told me nothing, so I don't suppose they had any lights put in, and must have used their own lights.

Q. On your card here of August 27th, I notice 5316, whatever that number is, or whatever ship that number is, as "12 hours light." Whatever that is, then, that would be a true record, would it? A. Yes, sir.

Q. Mr. Ferro, you did not know what they were doing on board [1158—1070] ship, did you?

A. No, sir.

Q. You just ran your lights until you were told

(Testimony of Marcell Ferro.)

to turn them off, is that it? A. Yes, sir.

Q. Whether the men were using them at that time in the actual performance of labor on board of the ship, or doing other things for the ship, you don't know anything about? A. No, sir.

Q. So when you said on your cross-examination that you only ran the lights for the actual number of hours that work was performed on the ship you were making a guess at it, weren't you?

A. About running the lights?

Q. No. You were asked on cross-examination if you only ran the lights for the actual number of hours there was worked on the ship. You do not know what was going on on the ship, do you?

A. No, sir.

Q. Or how many hours they worked there?

A. No, sir.

Mr. FRANK.—I think that is all.

Recross-examination.

Mr. McCLANAHAN.—Q. You were paid, Mr. Ferro, for the number of hours shown on your card, were you not? A. Yes, sir.

Q. There would be no necessity to run your plant unless the lights were being used on the ship, would there? A. No, sir.

Q. You spoke of not going down to these other ships to see whether they were running their electric plants, or not. How far is your power-house from the ship where the work was being done?

A. It was the extreme end of the yard.

Q. How far would that be, a quarter of a mile?

(Testimony of Marcell Ferro.)

A. I should judge about a block or so, or half a block.

Q. What do you mean by a "block or so." Two blocks? A. Half a block, or a block. [1159—1071]

Q. Half a block?

A. Yes, sir, I should say that is about the distance from the wharf down to the power-house.

Q. What is about the distance?

A. About a block, I should judge.

Q. A city block?

A. One of the blocks we have over in Alameda. I don't know how long they are.

Q. 800 or 1,000 feet?

A. I don't know how long they are.

Q. How long would it take you to walk down there? A. I never timed myself in walking down.

Q. How far is your power plant located from the gate where you come into the yard?

A. I never judged what distance it was from the gate to the power plant.

Q. How long did it take you to walk it?

A. I never timed myself.

Q. You can give us some idea, can't you, how far it is?

A. I never timed myself to see how long it would take me to walk.

Q. Is it a quarter of a mile?

A. I don't know if it is a quarter of a mile, or $\frac{1}{8}$ of a mile. I could not say.

Q. Several blocks, is it?

(Testimony of Marcell Ferro.)

A. I could not say whether it is several blocks from there to the power-house.

Q. Does it take you five minutes to walk from the gate to the power-house?

A. I don't know how long it takes. I never timed myself to see how long it takes to walk from there to the power-house.

Q. The power-house and the gate are not right together, are they? A. No, sir, that is a sure thing. [1160—1072]

Mr. FRANK.—I am going to Los Angeles to try a case, and I expect it will take me about a week, so we will have to adjourn until then.

Mr. McCLANAHAN.—When shall we adjourn to?

Mr. FRANK.—Had we better not leave it and I will notify you when I come back?

Mr. McCLANAHAN.—Why cannot we adjourn to a set time and then if you are not here—

Mr. FRANK.—We can do that, but then you will want it in the record that I want a continuance again. We ought not to have any trouble about it. I will take it up as quick as I can get back.

Mr. McCLANAHAN.—When do you expect to try your case in Los Angeles?

Mr. FRANK.—We commence on Monday.

Mr. McCLANAHAN.—How long will it take you?

Mr. FRANK.—We have considerable testimony and it depends on how the Court treats it.

Mr. McCLANAHAN.—Cannot we suggest some day next week to which we can adjourn?

Mr. FRANK.—Let it go over until Thursday of

next week, and then we will make such disposition of it as the circumstances require.

(Whereupon an adjournment was taken until Thursday, October 5th, 1911, at 10 A. M.) [1161—1073]

Thursday, October 5th, 1911.

Mr. FRANK.—When we adjourned last, Mr. McClanahan, you made certain admissions on page 1067 of the record regarding schedules 2 and 3, and you reserved some propositions which you said you would be prepared to answer this morning.

Mr. McCLANAHAN.—We cannot admit the labor charges on schedule 3, but we will admit the value of the material already admitted to have been furnished to the “Hilonian” as such values appear on schedule 2, and the first page of schedule 3.

Mr. McCLANAHAN.—That is the bill \$170.06, schedule 2, being dated September 24, 1909; and the bill of \$540.61, marked schedule 3, page 1, being the bill of October 25th, 1909, excepting the charges for labor on the latter bill. Is that right?

Mr. McCLANAHAN.—Yes. The exception commences with the charge of \$36, and ends with the charge of \$28.80. It is expressly understood that the respondent does not admit any of the charges appearing on the second page of schedule 3, amounting to \$226.35.

Mr. FRANK.—Page 2 of schedule 3, dated October 30th, 1909, and mentioned by counsel is withdrawn as being an error of mine, and improperly included in the libel.

Mr. McCLANAHAN.—That will necessarily reduce your claim by the amount of that schedule.

Mr. FRANK.—I suppose it reduces the amount in the complaint, no doubt, if I have added the figures up right.

Mr. McCLANAHAN.—You have. [1162—1074]

[Testimony of Edward S. Hough, for Libelant.]

EDWARD S. HOUGH, called for the libelant, sworn.

Mr. FRANK.—Q. What is your name?

A. Edward S. Hough.

Q. What is your business?

A. Consulting engineer and marine surveyor.

Q. How long have you been in that business?

A. In engineering business, 30 years.

Q. When you say “engineering” do you mean consulting engineer?

A. No, sir, the various grades from apprentice up.

Q. How long have you been consulting engineer?

A. About 13 years.

Q. Where at? A. San Francisco.

Q. How long have you been a marine surveyor?

A. The same term.

Q. In your capacity of consulting engineer and marine surveyor do you represent any shipping interests on this coast?

A. Yes, sir, the Bureau Veritas, International Register, and various steamer owners on the coast.

Q. Various steamer owners? Are you regularly employed by any concerns engaged in that business?

(Testimony of Edward S. Hough.)

A. I am retained by some.

Q. About how many, and what are they?

A. I am on regular salary from three.

Q. Who are they?

A. California and Oregon Coast Steamship, the Pacific Lumber and the Hammond Lumber.

Q. Besides these? A. No others.

Q. Though not regularly employed, are you not in general practice for all who wish to employ you?

A. Yes, sir, open to engagement.

Q. And in that capacity have you had an extended experience? A. During that 13 years.

Q. And in your business of consulting engineer and marine surveyor have you had to have repairs made and oversee repairs for vessels? [1163—1075]

A. Yes, sir.

Q. That is a large portion of your work, is it not?

A. Yes, sir.

Q. Pass on bills? A. Yes, sir.

Q. And in that capacity have you become familiar with the prices of material and labor prevailing in the port of San Francisco? A. I consider so.

Q. You were so employed in the year 1909?

A. Yes, sir.

Q. And knew the conditions prevailing at that time in the ship-building business?

A. Yes, sir. I was familiar with them.

Q. Familiar with the prices of material and with the prices of lumber? A. I consider so.

Q. The classifications of labor? A. Yes, sir.

Q. Now, Mr. Hough, I show you a bill attached to

(Testimony of Edward S. Hough.)

the libel on file in this cause, marked schedule 1, and dated September 27th, 1909, and ask you first to take up the detail of the material specified in said schedule which is to be found on pages 4, 5, 6, 7 and 8 of that schedule, and ask you to state whether or no the prices charged in said bill for the material therein specified were or were not the standard prices for such material prevailing in the port of San Francisco at that time. Take your time.

A. It will take considerable time, Mr. Frank.

Q. Take all the time that is necessary, Mr. Hough.

A. In the first place, it says, "Cast iron 4 cents a pound." Now, a casting will vary in price according to its character, and it does not state anything as to the nature of these castings. Without a specification I cannot tell you if 4 cents is right. That same arrangement will apply to brass bronze. With regard to rod iron, it does not state whether this is in bulk or short lengths. The price will vary accordingly. The price on Challenge [1164—1076] Metal, 45 cents, is a standard and is right.

Mr. McCLANAHAN.—Q. Confine your statement of values to August and September, 1909.

A. Yes. This bill is September 27th?

Q. Yes, 1909, the values of that month.

A. Yes, sir. Now, sheet iron, steel plate, channel and angle iron, and angle iron repeated, no specifications as to bulk or short lengths; the same argument as to rod iron and bronze. Red lead putty, 10 cents, is right. Rivets 5 cents per pound, I believe to be correct. What are these A. S. K. rivets?

(Testimony of Edward S. Hough.)

Q. They should be C. S. K.

A. Are these cat rivets or bullneck rivets, or what?

Mr. McCLANAHAN.—I object to the witness asking for information that does not appear on the bill.

Mr. FRANK.—Q. Give the prices for each class of rivets, so that we can supply the testimony afterwards with respect to that.

A. Mr. Frank, there are various classes of counter-sunk rivets. May I ask if this is an oil rivet?

Mr. McCLANAHAN.—I shall have to object.

A. (Contg.) It is simply to get at it.

Mr. FRANK.—Q. Go on and make your explanation, Mr. Hough.

A. I am unable to pass on 7 cents.

Mr. FRANK.—I object to your interrupting. Let the witness finish and then you can make any objection you want to the testimony.

Mr. McCLANAHAN.—I have not said a word to the witness. The witness volunteered he could not pass the estimate on the item as it stands now.
[1165—1077]

Mr. FRANK.—Q. If there are different classes of rivets in your mind that have different prices, give us the several classes with the prices; that is because you do not know the nature of the rivets.

A. I should like to have explained what the nature of the rivet is.

Q. That is what you are here for.

A. I cannot tell you what that rivet is.

(Testimony of Edward S. Hough.)

Q. But you do tell us what the difficulty is, why you cannot pass on it, so that we can intelligently supply the information when the time comes.

A. I would say, then, for any counter-sunk rivets that for the small quantity of 13 pounds, as specified, 7 cents is right. C. R. Steel, 214 pounds at 5¢, right. Forging 4¢ for 3231 pounds, I believe, to be fair. Sheet brass, 5 pounds at 30¢ a pound, right. Rod brass, 3 pounds at 50¢, right only if cut to lengths. Bronze patch, with a word preceding it, unintelligible.

Q. Manganese.

A. 35¢, right. May I ask a question?

Q. Yes; go on.

A. Am I to take all these pipe items separately?

Q. Whichever would be the fairest way, Mr Hough.

A. If it were my own bill I should total these items, these small items. May I ask a question of Mr. Curtis?

Q. Go on.

A. How many pounds of rags go to a sack?

Mr. CURTIS.—I could not tell you that offhand. There are various sizes; they use odd and ends sacking to fill the rags into.

The WITNESS.—May I make a suggestion?

Mr. FRANK.—Q. Go on.

A. From 20 feet $\frac{3}{4}$ pipe to three pounds King packing on the following page— [1166—1078]

Q. That is at the bottom.

A. Yes, \$2.40. Covering all those small items, ex-

(Testimony of Edward S. Hough.)

cepting the rags, which I *cannot* on, I would allow to go—I would pass.

Q. What do you mean by that?

A. Because I think they look right; they are small items.

Mr. McCLANAHAN.—Q. Do you include “template wood” at the top of the second sheet, where there is no quantity given, \$6.20?

Mr. FRANK.—If you will kindly reserve your cross-examination, Mr. McClanahan, until I get done with the witness, it will facilitate matters very much.

Mr. McCLANAHAN.—I permitted Mr. Curtis to interject his evidence into the case. I thought it would expedite the matter by having Mr. Hough clear that up.

Mr. FRANK.—All right.

Q. Clear it up, Mr. Hough.

A. If it were my own bill, I should not question it. I will add to that, unless I had reason so to do, when I examined the work.

Q. By that I suppose you mean, Mr. Hough, when you examined the work that quantity of template wood used would be indicated by the nature of the work; is that right?

A. I should see the amount of template wood used and would then know its value. Shall I go on?

Q. Yes.

A. 1145 pounds of check floor plate, 5¢ per pound; does not state if in bulk or cut.

Q. What do you say about that?

A. I am unable to say anything.

(Testimony of Edward S. Hough.)

Q. If in bulk, what would be the price?

A. The price purchased at the works, or at the yard?

Q. The price that the yard would deliver it on a job to the ship? A. Probably half a cent less.

[1167—1079]

Mr. McCLANAHAN.—Q. Less than what?

A. Less than 5¢, probably 4½¢.

Mr. FRANK.—Q. And if cut what about the price?

A. It depends upon the expense of cutting; I am unable to say.

Q. Let us get that clear; what do you mean by that?

A. It might be 5¢ or 6¢ or might even be 10¢.

Q. Then 5¢ would be the lowest value for cut; is that right?

A. It might be 4¾¢ cut, Mr. Frank. I cannot tell you. It depends upon the labor put in.

Q. Then 5¢, according to your view, for cut check floor plate would not be out of the way?

Mr. McCLANAHAN.—I object to the question as leading and suggestive. The witness has testified on the subject fully.

Mr. FRANK.—I claim the right to lead this witness, if I see fit.

Q. How about that, Mr. Hough?

A. Will you repeat that question again?

Q. Then 5¢, according to your view, for cut check floor plate would not be out of the way?

A. No, sir. 200 lbs. No. 14 galvanized sheet-iron

(Testimony of Edward S. Hough.)

5¢, I think right. 145 lbs. round and flat iron 3¾¢; 290 lbs. of blue steel—

Mr. McCLANAHAN.—Wait a moment.

A. I was going to take 3 or 4 items together.

Q. All right.

A. 220 Norway Iron 5¢; 8 lbs. band-iron at 5¢ and 21 lbs. of Russian iron at 10¢.

Mr. FRANK.—Q. Let us understand it: all these items of iron at 5¢ you consider what?

A. I am going to tell you now, Mr. Frank. 21 lbs. of Russian [1168—1080] iron at 10¢, all those items I consider fair. Template wood, I cannot say anything about.

Q. That is, because it depends on the quantity of which you are not informed?

A. Yes, sir. 5 lbs. of sheet-brass 30¢; 35 lbs. brass rods, 30¢, and 63 lbs. bronze rod 35¢; 5 lbs. sheet-copper 30¢; 3 lbs. ½ inch brass pipe, 35¢; 95 lbs. of sheet zinc, which would be 10¢, are right. Candles, I am not familiar with. 17 gallons of gasoline; 10 gallons of coal-oil; 5 gallons of Polar-oil—omit that Polar-oil, please—gasoline and coal-oil are right. Polar-oil I cannot pass on. 102 lbs. of rags, omit.

Q. That is, you are not able to pass on them?

A. You buy them by the sack. I am unable to say the weight. It will take a little time to go through these bolts.

Q. Take your time. That is what we are here for. Time is absolutely of no consequence. It is the bill we are after. A. Can I have a slip of paper?

Q. Yes. A. Now, bolts.

(Testimony of Edward S. Hough.)

Q. What items? How much does what you are going to speak of include?

A. I am going to give you item \$5.12; 30¢; \$5.20; \$8.38; 40¢; 30¢; \$2.48, I think are right. 24 Washers \$1.50, unable to pass on.

Q. Why are you unable to pass on them?

A. I don't know what the sample looks like. It says, "Cut-washers as per sample." I don't know what the sample looks like. Brass nuts, amounting to \$1.98, I am unable to pass on.

Q. Why, Mr. Hough?

A. They may be special nuts. It does not say standard. Items 6¢ for sleeves; 5¢ for a reducer; 88¢ for brass screws; 15¢ for galvanized tacks, I believe are right. 500 lbs. cement; 1600 lbs. sand, are right. 44 16-candle power electric lamps, are billed at the figure usually [1169—1081] charged by machine-shops. 16 plugs for \$4.80, I am not able to pass upon.

Q. Why not?

A. I don't know the plug. 3½ inch by 27 inch studs, 90¢, is right. 300 feet of No. 18 Marine portable cable—can I ask a question?

Q. Certainly. What is it?

A. That is rubber covered?

Mr. McCLANAHAN.—I object to the question.

A. (Continuing:) I am unable to pass on it.

Mr. FRANK.—Q. You are unable to pass on it because you do not know whether it is rubber covered or not; is that it? A. Yes, sir.

Q. If it is rubber covered what would be the price?

(Testimony of Edward S. Hough.)

A. If it is heavy rubber covered Navy cable the price is right. 2 copper corrugated gaskets \$8, unable to pass on. No size given. 8 rolls of friction tape, \$2, right. 5 lbs. of black powder, \$2.50, I don't know anything about it. 23 lbs. of lubricating compound, not familiar with it. 1½ gallon of anti-fouling paint, \$2, for such a small quantity perhaps right. 12 lbs. solder, \$3, right. 3 lbs. of brass wire gauze, all right. 5 lbs. of smoothon, I am not familiar with the price. 15 lbs. of brown soap, is all right. 3 lbs. of graphite, all right. 73 feet of teakwood, \$18.25, cannot pass on.

Q. Why?

A. In the first place, I am not familiar with the price of teak. It does not say whether that is board measure or running feet. Sawing teak, \$5.50, unable to pass on. 11 lbs. of tallow, \$1.10, right. 13 lbs. of litharge, right for this quantity. 1 gallon of glycerine, right for this quantity. 62½ inch hex nuts, \$4.40 I cannot pass on. [1170—1082]

Q. Why?

A. It does not state if they are standard nuts, black or finished. 250 feet of No. 14 rubber covered wire, cannot pass on. I am not familiar with the price of that wire No. 14. 75 gallons of distillate, is right. 10 lbs. of glazier's putty, is right. 5 corrugated lights for \$5.50, I don't know what they are. Supplying bitumastic solution, I don't know anything about—about this particular light. I shall have to wade through some more bolts.

Q. All right.

(Testimony of Edward S. Hough.)

A. I cannot certify to these bolts. There are no lengths given.

Q. How far does that take you down?

A. \$27.03.

Q. Just that item? A. Yes, sir.

Q. Why not?

A. There are no lengths given to the bolts. Item 24¢ and 40¢—do you want the specifications for this?

Q. No. It follows immediately after what you have just testified to.

A. 40¢ again, 45¢, 75¢, 30¢, are correct. \$2.10 for 6 lbs. of solder, is incorrect.

Q. Why do you say it is incorrect?

A. For 8 lbs. of solder \$2.00 is correct.

Q. I do not just understand your course of reasoning from what you have said. Do you think because Mr. McClanahan pointed out to you in another part of the bill a charge of \$2.00 for 8 lbs. of solder, that this charge cannot be correct?

A. No, sir; I do not think because Mr. McClanahan pointed anything out to me that it is incorrect.

Q. Why do you say that?

A. Because I stopped at \$2.10 to go back to find some more solder which was charged at a different figure. Mr. McClanahan may point out anything he pleases. [1171—1083]

Q. Let us not get off on that issue.

Mr. McCLANAHAN.—You started it.

Mr. FRANK.—It is because you found a charge of \$2.00 for 8 lbs. in another part, that you conclude \$2.10 in this part is not correct? A. I do not.

(Testimony of Edward S. Hough.)

Q. Let us know your reason; I am trying to find your reasoning.

A. I conclude \$2.10 is wrong for 6 lbs. of solder.

Q. Why?

A. Because I have previously stated \$2.00 is correct for 8 lbs. of solder, and that is what we pay.

Q. There might be different prices at different times, might there not?

A. I am asked to state what I know about the prices existing on this date.

Q. I understand. I am asking you concerning these facts to elucidate it. That might also be true.

A. I don't know anything of extenuating circumstances in that item. [1172—1084]

Q. By that last answer do you mean to say that you do not know whether or not the price may have varied during that term or that you do know that the price did not vary?

Mr. McCLANAHAN.—I object to the question on the ground there is no evidence being given here by the witness except as to the date of September, 1909.

A. During which time?

Mr. FRANK.—Q. During the period of August and September, 1909, covered by this bill?

A. I know of no variation in the price of solder during that term.

Q. That is what you mean by your answer about extenuating circumstances; is that right?

A. Or anything else which might affect the price. Now, as to this packing, I shall need to refresh my

(Testimony of Edward S. Hough.)

memory before certifying. I can only do so at my office.

Q. We will take that up later with you then. How will you undertake to refresh your memory?

A. How long?

Q. In what manner—so that we may know.

A. I went to look up the figures.

Q. Which you have used?

A. Which I used at that time.

Q. Now, that includes what items?

A. That would be \$1.40 for 2 pounds of Amazon, \$28.80 for 36 pounds of King packing, \$20.00 for 50 pounds—no, the Flax packing is right; I believe to be right. Can I make a statement here?

Q. Go on, if it is germane to the issues.

A. I am treating these values always as proper charge from a machine-shop—

Q. That is what we are after.

A. (Contg.)—not from a packing factory.

Q. That is right; it is the machine-shop that is selling it.

A. 9 pounds of Gladiator packing is right. For 33 pounds of [1173—1085] black rubber. I am unable to certify at that date.

Q. Why?

A. Rubber varied. That class of rubber packing varied 5 cents a pound.

Q. How do you mean by “varied”?

A. It was up and down.

Q. This price that is charged here—

A. Is 30 cents a pound.

(Testimony of Edward S. Hough.)

Q. 30 cents a pound? A. Yes.

Q. On which side of the 30 cents did it vary, both above and below?

A. Yes; according to the quantity taken.

Q. That is it might be all the way from 25 to 35 cents, according to the quantity taken?

A. According to quantity taken, lots taken. I would like to defer some of these because there is a lot of stuff there which I am a little uncertain of.

Q. You mean until after recess? A. Yes.

Q. Do you want to take the record with you?

A. Yes.

Mr. FRANK.—Have you any objection to his taking the original?

Mr. McCLANAHAN.—That is the original on file.

Mr. FRANK.—Yes.

Mr. McCLANAHAN.—I have no objection.

(A recess was here taken until 2 P. M.) [1174—1086]

AFTERNOON SESSION.

EDWARD S. HOUGH, direct examination resumed:

Mr. FRANK.—Q. Go on, Mr. Hough.

A. 2 lbs. of Amazon packing; 36 lbs. of King packing, and 50 lbs of Flax packing.

Mr. McCLANAHAN.—You have already testified to the Flax packing and the Amazon packing.

Mr. FRANK.—Not as I understand. If he has he can testify again.

Mr. McCLANAHAN.—He has.

(Testimony of Edward S. Hough.)

Mr. FRANK.—It will do no harm if he has.

Q. Go on, Mr. Hough.

A. I believe these items to be correct.

Q. How about the Gladiator packing?

A. I was going to deal with that. I have only got as far as the Flax packing. It does not state what character of Gladiator packing this is. According to my office record Gladiator packing varies from 30¢ to \$1.20 per lb., packing of Gladiator make. Pipe, amounting to \$50.64; fittings, amounting to \$11.61—there is one item here not clear, that is, 1½ something, that I don't know.

Q. It is brass. Assume it is brass.

A. I assumed it to be a fitting, ½ inch fittings amounting in total to \$3.58, and fittings amounting to \$6.17, I can find no fault with them. Can I read forward through a lot of small stuff here? They are legion.

Q. Yes. [1175—1087]

Mr. McCLANAHAN.—Q. Just read the money items?

A. 50¢; 36¢; 35¢; \$5.22; 98¢; 35¢; 51¢; 12¢; 26¢; \$5.30; \$6.17; \$10.50; \$36.50; 60¢; 60¢; \$5.25; 60¢; 50¢; \$4.

Q. You have skipped one? A. Yes.

Q. Settle these you have just checked off. What are they, right or wrong?

A. In my opinion they are right and customary—\$1.75 I cannot pass on.

Mr. FRANK.—Q. Why?

A. The specification “2 corrugated copper gas-

(Testimony of Edward S. Hough.)

kets" is not sufficient to judge. \$4; \$5.20; I believe to be right. \$2, I know nothing of. The specification is "2 1½ India oil-stoves, I am not acquainted with them.

Q. Oil-stones? A. It says "oil-stoves."

Mr. McCLANAHAN.—Q. Do not change it on the record but assume it is oil-stones.

A. I have not touched it.

Mr. FRANK.—Q. If it is oil-stones, do you know anything about that?

A. No, sir. Brass swivel hasp—I suppose that is some kind of a door-swivel, but there being no specification I cannot pass on it.

Q. 90¢?

A. 90¢. \$1.40; 30¢, correct. 6 lbs. of Asbestos tape, a little higher than we are accustomed to pay.

Q. What do you mean by that?

A. What we have had in asbestos tape, I find is from 75¢, but it is not billed from the United Engineering Works.

Q. Bought in large quantities or small quantities?

A. As we happen to need it, large or small.

Q. I mean, are they provided to you by iron works?

A. No, sir; that is from the concern carrying that stuff in town and retailing it as well as wholesaling it. [1176—1088]

Q. You will understand that the question that is addressed to you is, what is the usual, ordinary and customary price charged by the several iron works and machine-shops engaged in ship-building?

A. I have no record of any being billed to us.

(Testimony of Edward S. Hough.)

Q. Then you would not know what, under those conditions, would be the fair price. Is that it?

A. I think not. 50¢—\$1.50; \$21, correct. 23¼ new style try-cocks, I don't know what these are. 1 6 inch face compound Ammonia gauge, \$17.75, I cannot pass on. 1 engine lubricator, \$2, I cannot pass on. 2 knuckle forgings for \$4.20, ditto.

Mr. McCLANAHAN.—Q. You mean you cannot pass on it?

A. No, sir. Alter and installing steam and vacuum gauge-pipes \$30, I cannot pass on. 30¢; \$9, correct. Galvanizing 8 pieces of plate, \$4.55, I cannot pass on. 60¢, right. Pattern work, \$324.10, I cannot pass on. That completes the material.

Q. Now turn to the next page which has the labor.

Mr. McCLANAHAN.—We will save you the trouble of going through that labor, by admitting that the price per hour is the proper price to be charged by a shop for the labor.

Mr. FRANK.—Under the different classifications stated there.

Mr. McCLANAHAN.—Yes, for the labor. Of course it is understood that we are not admitting by this admission, that the labor was performed as set forth in the bill. We are simply admitting the rate of wage paid for that labor to be correct.

Mr. FRANK.—That we may thoroughly understand each other, Mr. McClanahan, do I understand that in that admission, you include that that rate of wages is the proper rate of wages for an 8½ hour or 8¾ hour day, whatever it may have been [1177—

(Testimony of Edward S. Hough.)

1089] at that time, on the sliding scale?

Mr. McCLANAHAN.—My admission does not go that far. My opinion goes simply to the rate of wage per hour as shown by the bill as being the customary rate charged by shops at that time.

Mr. FRANK.—I understand you, then, which is practically not an admission of that rate of wages.

Q. Now, Mr. Hough, you were acquainted with the fact, were you not, that during a certain period in 1909, there was a change from a 9-hour day by degrees in a sliding scale to an 8-hour day?

Mr. McCLANAHAN.—I understand Mr. Frank, then, that you do not take my admission?

Mr. FRANK.—I take your admission for what it is worth. Your admission does not admit the whole proposition. I am not compelled to cease from examining the witness on the subject because you have given a qualified admission which does not reach the merits of the case.

Mr. McCLANAHAN.—My admission was unqualified as far as it went and was made simply to save the record and to avoid encumbering it any more than is necessary. If you do not want my admission I shall have to withdraw it.

Mr. FRANK.—I want your admission. I accept it for everything there is in it.

Mr. McCLANAHAN.—All right. Confine your examination, Mr. Frank, please, to matters not admitted.

Mr. FRANK.—That is what I am doing precisely.

(Testimony of Edward S. Hough.)

Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. There was a reduction of hours from 9 by quarters or by [1178—1090] halves, I forget which, until we subsequently reached the 8-hour day.

Q. What was the custom and practice among all of the iron works engaged in the shipbuilding business at that time with respect to the charges for labor as affected by that sliding scale?

Mr. McCLANAHAN.—I object to the question as unintelligible.

Mr. FRANK.—Then the witness will elucidate it.

A. If I may review the hours of labor in question antedating 1909, we had 10 hours to a day's work, for which we had specified rates classified according to the tool or the skilled or unskilled help employed. After the strike, when the men called for 9 hours, we had the same rates for the day's performance as before. That rate continued regardless of the reduction in the hours worked. We got 9 hours, I think 8 hours and $\frac{3}{4}$, and reductions by quarters, I think, until we reached the 8 hours. We paid, however, and are paying as far as I know, the same rate for a tool and a man, or a man on board of ship, and we simply figure that it costs six, seven or \$8, or whatever it may be, to get a day's work, whatever that may be, in the shops and under their agreements with the unions.

Q. Well, so as to make that more clear, Mr. Hough, when the number of hours that the men actually worked were decreased, did or did not the number of

(Testimony of Edward S. Hough.)

hours charged decrease?

A. We paid—our time-card which called for 9 hours, we paid for 10, and we are still paying for 10.

Q. You are paying for 10?

A. We are paying for 10. We could get no reduction when this sliding-scale took place.

Q. In other words, instead of increasing the charge of each [1179—1091] man per hour they increased the number of hours over that which was actually worked, so that the charge was for a 9-hour day at that rate, instead of for an 8½ hour day. Is that right?

A. Exactly. We paid for 10 hours' work. The rate has not been reduced. We simply get less work for that money, and we figure we are paying 25 per cent or thereabouts more for our work now, than prior to the strike.

Q. That we may get this clear, and that there may be no misunderstanding about it, when the men actually worked 8½ hours a day, instead of raising the rate per hour, they raised the number of hours sufficient to make the same multiple as if they had raised the rate per hour multiplied by the actual number of hours of work. Is that right?

A. They did for some time. They brought that up to correspond with the 10 hours.

Q. And that was the practice during this time, was it?

Mr. McCLANAHAN.—I object to the question upon the ground that we are not to be bound by any practice.

(Testimony of Edward S. Hough.)

Mr. FRANK.—Go on and answer the question, Mr. Hough.

A. That was my understanding of our bills, or the bills coming from those shops, with which I have had to do.

Q. Well, you have had to do with all of the shops, have you not?

A. I have to do with most of them.

Q. And it was the common customary mode of making those charges. Is that right?

Mr. McCLANAHAN.—I object to that upon the same grounds, that we are not to be bound by the custom.

A. As I have stated in those shops, with which I have had to do, yes.

Mr. FRANK.—Q. In other words, the rate per hour expressed in [1180—1092] this bill was the standard rate per hour for an 8½ hour day charged as a 9-hour day.

Mr. McCLANAHAN.—I object to that question upon the ground that the witness has not so testified.

Mr. FRANK.—He is the man who has testified.

A. I will not state standard.

Q. Why not, Mr. Hough?

A. For the reason that rates have varied lately in the different shops 5¢ an hour on what is classed as a medium tool.

Q. All the works with which you have dealt have made their charges in that way, have they not, and you have accepted them?

A. All the works with which I have had to deal

(Testimony of Edward S. Hough.)

have not all had exactly the same charge per hour.

Q. Whatever their charge per hour may have been, the multiple they charged per hour by the number of hours charged to you made the same result per day as this does? A. That condition was common.

Q. In other words, for one class of work they would charge \$6 a day for an 8½ hour day; is that right?

A. Are you assuming that to be a charge?

Q. Take it from the bill. They would charge \$6 for an 8½ hour day, but in subdividing it into hours were charging at the rate of 60 cents and add the additional time making it a 10 hour day, is that right?

A. I have not exactly followed you word for word. We pay for 10 hours regardless of the number of hours worked. We pay the 10-hour rate, but variations in the shop rate may be slight whether it is \$6.50 for a medium tool, or \$7.50 for a medium tool in another shop, we pay that price for a day's work, a day's work consisting of 8 hours at the present time. [1181—1093]

Q. The 10-hour day was for work done on the ship out of the shop, was it not?

A. You say 10 hours worked on the ship?

Q. No. 10 hours were charged against you for a less number of hours worked on the ship, whatever it was? A. Yes, sir.

Q. How much was it that was actually worked?

A. From 9 hours down.

Q. And in the shop how many hours a day was charged up against you?

(Testimony of Edward S. Hough.)

A. I cannot say just now.

Q. Was it not 9 hours?

A. I cannot say, Mr. Frank, positively.

Q. Have you any way in which you can refresh your recollection on that subject?

A. Only by looking up bills at that time.

Q. You will have an opportunity to do that later and we will take that up with you? A. Yes, sir.

Q. So that we may get this thing straight then: this rate of wages per hour was charged for less than a 9-hour day a sliding scale down to 8 hours and charged for as having occupied 9 or 10 hours, as the case may be, whether it is in the shop or on the ship.

Mr. McCLANAHAN.—I object to that upon the ground that the witness has disclaimed any knowledge of the hours in the shop at that time.

Mr. FRANK.—That is right, but I am assuming, now, he will be able to verify that. All I am attempting to do is to get this thing in the shape that the person who has to pass on it will understand how the charge is made. It is somewhat difficult to make a statement of it.

A. You want me to answer now?

Q. Yes.

A. The hours on a time-card were increased to correspond with that delay charge that I have mentioned. [1182—1094]

Q. So that the multiple of the time of the hours worked, multiplied by this rate would be equal to the actual time worked multiplied by a higher rate sufficient to make the same amount per day; is that right?

(Testimony of Edward S. Hough.)

A. I do not know that I have got your question.

Q. Read the question, Mr. Reporter. I think that is correct, but at the same time I want to get it so that other people will understand it.

(The Reporter reads the question.)

A. It sounds like that.

Q. In other words, instead of raising the price per hour, they simply raised the hours?

A. Raised the hours.

Q. So that the result of the charge for a day's work would be the same, is that right?

A. That is right.

Mr. FRANK.—Now, I understand, Mr. McClanahan, your admission to include the classification?

Mr. McCLANAHAN.—I think I so stated, the classification of the labor.

Mr. FRANK.—Q. Now, Mr. Hough, we will go back to the material. You stated this morning that you were enabled to pass upon the charge in this bill for cast-iron because the bill does not state anything concerning the nature of the castings. Do you remember that? A. I do.

Q. Now, independent of the nature of the casting, have you not uniformly paid 4¢ per lb. for cast-iron?

A. I paid 4¢ a lb. for cast-iron, yes, but I have always known what I am paying for. In this case I know nothing about it.

Q. Has there ever been any kind of cast-iron that you have paid a different rate for?

A. Yes. I have paid 6 cents. [1183—1095]

Q. 6 cents? A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Any other rates that you have paid?

A. I have paid $3\frac{3}{4}$.

Q. What would constitute the difference?

A. The size of the casting.

Q. It would have to be a very simple casting, would it not, to be less than 4 cents a lb.?

A. Yes, sir, a very simple casting.

Q. Now, with respect to the cast brass, have you not uniformly paid 30¢ a lb. for that?

A. We have paid 28¢ and have paid 35¢.

Q. You have paid 35¢? A. Yes, sir.

Q. So the same remark applied to that as to the iron? A. Yes, sir.

Q. That the 28 cents would be a very simple casting?

A. Yes, sir. It is a question of simplicity and quality.

Q. Now, with respect to the bronze, have you not always paid as high as 35¢ a lb. for the bronze?

A. I will not be sure on that, Mr. Frank. I think we have.

Q. You think you have?

A. I think we have.

Q. Now, with respect to the rod-iron. If it has not been sold in bulk, do you not consider 4 cents a fair price? A. I think it right for 60 lbs.

Q. Now, with respect to the sheet-iron, have you not been in the habit of paying at least 4¢ per lb. for the sheet-iron?

Mr. McCLANAHAN.—I object to that question as immaterial. The question is not what the witness

(Testimony of Edward S. Hough.)

had been in the habit of paying, but what the market value of sheet-iron is.

A. I stated this morning that I could not pass correctly on these matters on account of the slimness of the specification. [1184—1096] If I could know what the stock is for I could talk more to the point.

Mr. FRANK.—Q. Just kindly answer the question, Mr. Hough, just read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. We have paid 4¢, yes, for sheet-iron.

Q. And you have paid more, have you?

A. Yes, sir, for a small piece.

Q. Then by your answer there is no specification respecting sheet-iron—you mean simply that under some conditions it might be higher?

Mr. McCLANAHAN.—I object to the question on the ground that the witness' remark as to specifications applied not to the sheet-iron alone, but to numerous other items on the bill.

A. We have paid higher, as I have stated.

Mr. FRANK.—Q. That does not answer my question, Mr. Hough. Kindly attend to it. Read the question to the witness, Mr. Reporter.

(The Reporter reads the question.)

A. Yes, sir.

Q. You understand I have limited that answer. I do not want to mislead you. I have excluded a lower price.

A. I thought I answered the question.

Q. I know, but I wanted you to understand the

(Testimony of Edward S. Hough.)

meaning of my question, so that you would not be mislead about it.

Mr. McCLANAHAN.—I submit that the question speaks for itself. I do not see there is any need of warning the witness. Why don't you ask him, Mr. Frank, if it might not be lower as well as higher?
[1185—1097]

Mr. FRANK.—I have asked the witness the question, and he understands it.

Q. You understand my question, do you not?

A. I do not understand that there is an answer coming, Mr. Frank. I thought I had answered it.

Q. Yes. You understand it in the sense in which I have told you I meant it?

A. That it may be higher?

Q. Yes. A. Yes, sir, it may be higher.

Q. Is that not a minimum price?

A. I will not certify to that because I cannot say positively. I do not remember having paid any less than 4 cents.

Q. That is what I want to get at, Mr. Hough.

A. My memory is not infallible.

Q. In other words, that is the usual price that you had been in the habit of paying, at least 4 cents?

Mr. McCLANAHAN.—I object to the question on the ground that it is not the measure of value what the witness has usually been paying for sheet-iron.

A. I will not say "usually."

Mr. FRANK.—Q. I do not want to get into any difficulty or conflict, Mr. Hough, about this. I simply want to be correct about it. I understand that

(Testimony of Edward S. Hough.)

you do not remember ever having paid a lower price than 4 cents? A. I do not.

Q. And that according to your present memory, you either paid 4 cents, or more?

A. We have paid more.

Q. Either 4 cents or more. Is that right?

A. I think so.

Q. Now, with respect to the steel plate, is not 4 cents a usual and customary price that you have been paying in your experience for that?

Mr. McCLANAHAN.—I object to the question on the ground [1186—1098] that that is not the measure of value that the witness has usually paid for steel plate.

A. The price charged us for steel plate, and angle worked with the plate, has been the same.

Mr. FRANK.—Q. What do you mean by the “same”? A. The same price per lb.

Q. 4 cents?

Mr. McCLANAHAN.—I object to the question upon the ground that the witness has not said 4 cents.

A. I said the same price per lb.

Mr. FRANK.—Q. You have paid for each of those items the same price per lb. Is that right?

A. Yes, sir.

Q. And that price has been 4 cents?

A. It has been 4 cents, and it has been higher, and I want to add, if I may, that we have paid higher prices when the quantities have been small.

Q. Then you would not undertake to say that the 4 cents in this case is an unreasonable price?

(Testimony of Edward S. Hough.)

A. I will not.

Q. You have not been in the habit of paying more than the market price for any of the things that you have received, have you, Mr. Hough?

A. No, sir, not if we knew it.

Q. And you keep posted on those things in your business? A. Fairly well.

Q. What is the standard length of an uncut rod of brass?

A. The standard length of an uncut rod of brass?

Q. Yes. A. I could not tell you.

Q. You don't know? A. No, sir.

Q. What did you mean, then, in speaking of the price of a rod of brass, that it is right if cut to lengths?

A. If they cut a rod they charge us an increased rate per lb. [1187—1099]

Q. And you don't know what the length of rods are so as to determine whether or not any given piece is cut?

A. Yes, sir. I can tell that a piece of rod 2 feet long is cut from a longer piece, because they all run longer than that.

Q. What have you in mind, then, as the length of a rod from which they are cut?

A. Well, I would not certify to the length of a box. I know them by sight, these rods. I have never measured them accurately and cannot tell you.

Q. You know them by sight?

A. Yes, sir. I have seen them coming in stock.

Q. Then you have a fair judgment as to what the lengths are?

(Testimony of Edward S. Hough.)

A. They will run 12 and 14 feet long sometimes.

Q. That is what I am trying to get at. Now, with reference to the check floor plate, Mr. Hough, have you ever paid less than 5 cents per lb. for that?

Mr. McCLANAHAN.—I object to the question as immaterial.

A. Have I paid less than 5 cents? I could not tell you without looking it up.

Q. You could not tell? A. No, sir.

Q. What is your present recollection?

A. I would rather not state.

Q. I am speaking, of course, with reference to the floor plate furnished by iron works in the work of repairing a vessel. A. Yes, sir.

Q. Would you ascertain that for us?

A. Yes, sir.

Q. Now, with reference to the rags, Mr. Hough; you spoke of not being able to say because you buy it by the sack. Are not your sacks weighed? Do you not buy really by the lb. when you buy it by the sack?

A. I do not know. I simply pay so much a sack.
[1188—1100]

Q. So much a sack? A. Yes, sir.

Q. Do you mean by that, that you have furnished the rags yourself?

A. No, sir. We buy them for the steamers.

Q. You buy them to supply your steamers?

A. Yes, sir.

Q. I am referring now to rags furnished by ship-builders in performing repairing work on ships.

(Testimony of Edward S. Hough.)

You do not buy them by the sack there, you pay for them— A. As we draw them from the store.

Q. Do you furnish them to the shipbuilder?

A. I say, we draw them from the store at the shipyard if we happen to need any.

Q. You draw them from the ship's stores; is that what you mean?

A. No, sir; we frequently draw from the United or the Risdon Iron Works, wherever we may happen to be.

Q. You draw them by the sack?

A. If a man wants a sack we tell them to send down a sack if we think we need it. We do not stop to weigh a sack of rags.

Q. Let us not get on the ragged edge of this small proposition. As a matter of fact, you have been paying bills of this sort right along?

A. Of this character; yes.

Q. In which rags have been issued by the iron works that you have not drawn, and been charged for by the lb.?

A. I expect so. If we ever get them they are in there somewhere.

Q. And you do not recall now how much a lb. you paid for them? A. No, sir.

Mr. FRANK.—That is all.

Mr. McCLANAHAN.—I prefer not to cross-examine the witness until you have entirely finished with him.

Mr. FRANK.—Finished what? [1189—1101]

Mr. McCLANAHAN.—With the witness.

(Testimony of Edward S. Hough.)

Mr. FRANK.—I give him to you now.

Mr. McCLANAHAN.—You have asked the witness to make search of his records for certain matters.

Mr. FRANK.—If that is the case I do not see why you cannot examine the witness now, because those items are very insignificant.

Mr. McCLANAHAN.—If you relieve the witness from that obligation, all right. I want you to finish with him, though, before I cross-examine him. The most recent item was check floor plating.

Mr. FRANK.—Is that all?

Mr. McCLANAHAN.—All that I can think of. I think there were one or two before that.

Mr. FRANK.—I do not understand that condition. That is what puzzles me. I see no reason why I cannot come back to it at some future time, if I want to. There is no reason why you could not come back to it on cross-examination if you want to.

Mr. McCLANAHAN.—I am entitled to have you finish entirely with the witness before you turn him over to me. If you have finished entirely with him that is one thing. If you have not let us finish the direct examination.

Mr. FRANK.—So far as the check floor plating is concerned, if you insist on that condition before going on, I will release the witness from making that examination at present.

Mr. McCLANAHAN.—(To the witness.) That was all that you were asked, Mr. Hough, to refresh your mind on, was it?

(Testimony of Edward S. Hough.)

The WITNESS.—I believe so.

Mr. McCLANAHAN.—Is that your understanding, Mr. Frank?

Mr. FRANK.—I think there were some other small items. [1190—1102] (After examination.) I do not see any other note of anything in my notes on the subject.

Mr. McCLANAHAN.—Then have you finished with the witness?

Mr. FRANK.—I do not understand, Mr. McClanahan, what you mean, have I finished with the witness. I have released the witness from the necessity of refreshing his recollection on those things and I have turned the witness over to you. I make this suggestion because if I knew exactly what you were at I might agree with you on it. Not knowing what you are at, I do not wish to curtail any right that I may have to examine the witness further. I have finished with him so far as I know at present.

Mr. McCLANAHAN.—There is no cross-examination. When are you going to again proceed, Mr. Frank?

Mr. FRANK.—Just as quickly as I can get my witnesses.

Mr. McCLANAHAN.—That is entirely unsatisfactory.

Mr. FRANK.—I know. It is unfortunate.

Mr. McCLANAHAN.—I have got to have from you some definite statement as to the time you will take to finish the case, or I will have to apply to the Court to limit it. It is embarrassing to my client; it

(Testimony of Edward S. Hough.)

is expensive to my client; it is embarrassing to me to have this thing dragging on in this way. It seems to me that with the time and continuances that you have had you ought to have some definite idea as to when you can finish.

Mr. FRANK.—There are some things, Mr. McClanahan, that I do not wish to put in the record at this time. As you have just now put your speech in the record which would perfectly justify me in doing what I am. If the time ever arises for the explanation I will make it. I am doing everything I can [1191—1103] to get the witnesses, but I have been embarrassed by certain circumstances beyond my control and which could not be anticipated. I can let you know to-morrow. I cannot let you know to-day.

Mr. McCLANAHAN.—That is, you can let me know to-morrow what?

Mr. FRANK.—When I can go on.

Mr. McCLANAHAN.—That is not altogether satisfactory. When are you going to finish?

Mr. FRANK.—Just as quickly as I can get my case in.

Mr. McCLANAHAN.—What is your idea as to that?

Mr. FRANK.—It depends entirely on whether we can get these witnesses that we are seeking. I suggest, as to-day is Thursday, that we continue this until Monday morning, and I hope at that time to be able to go on.

Mr. McCLANAHAN.—Will you limit yourself un-

(Testimony of Edward S. Hough.)

til the close of next week to close your case?

Mr. FRANK.—There are three holidays next week. I will let you know Monday morning. I am not in a position to give you that definite answer that you want. Probably I will be on Monday. I am pursuing investigations that are not ripe and I cannot tell you. I am doing the best I can.

Mr. McCLANAHAN.—I give you notice now, Mr. Frank, that if on Monday you cannot give me some definite statement as to when you expect to close your case, I shall apply to the Court for a rule limiting your time.

Mr. FRANK.—All right.

Mr. McCLANAHAN.—And I now enter my protest at this continuance until Monday. I do not do that because I like to, Mr. Frank. We have one witness whom we have held here for weeks [1192—1104] paying his salary.

Mr. FRANK.—Is this for the record also?

Mr. McCLANAHAN.—Yes. And it is unfortunate that we have been so delayed.

Mr. FRANK.—I have offered to let you take his testimony at any time you wanted to. You could have done that just as easily as not. It is not necessary to detain him. Of course, if you wish to do so it is your privilege.

Mr. McCLANAHAN.—You do not know my case. This witness' evidence may depend on yours.

(An adjournment was here taken until Monday, October 9th, 1911, at 10 o'clock A. M.) [1193—1105]

(Testimony of Edward S. Hough.)

Monday, October 9th, 1911.

Mr. FRANK.—I am unable to go on this morning in consequence of not being able to procure the attendance of witnesses, and we will therefore adjourn until Wednesday morning, October 11th.

Mr. McCLANAHAN.—I protest against the adjournment.

(An adjournment was thereupon taken until Wednesday, October 11th, 1911, at 10 A. M.)

Wednesday, October 11th, 1911.

Mr. FRANK.—The witnesses not having appeared, I am unable to proceed this morning, and I ask to adjourn until Friday, October 13th.

Mr. McCLANAHAN.—We object to any adjournment at this time to Friday morning or any other time, and give notice that we shall apply to-day for an order limiting you in time in which your case shall be presented.

Mr. FRANK.—If you will give me a notice of your motion for the order so that I can present my side of the matter intelligently I shall be obliged. You might just as well make your motion on Friday as to-day, if there is such a motion to be made, as there may be some affidavits necessary to be filed to show the cause of these continuances as I have not attempted to set them out in the record.

Mr. McCLANAHAN.—I will serve you with a copy of the notice of motion within 15 or 20 minutes, and advise you now that the Court will be asked to pass on the motion at 2 o'clock this afternoon.

(Testimony of Edward S. Hough.)

(An adjournment was thereupon taken until Friday, October 13, 1911, at 10 o'clock A. M.) [1194—1106]

Friday, October 13th, 1911.

EDWIN S. HOUGH, recalled.

Mr. FRANK.—Q. Mr. Hough, I understand that you are going off to-morrow?

A. I expect to, Mr. Frank.

Q. To be gone some time?

A. I may be gone for some weeks.

Q. You were up here the other day and testified in this matter. On that occasion you were subpoenaed, were you not? A. Yes, sir.

Q. And were here under what was the compulsion of the subpoena? A. Yes, sir.

Q. You had declined to come up of your own free will?

Mr. McCLANAHAN.—I object to that as incompetent, irrelevant and immaterial. I fail to see the drift of this examination.

A. I did not see fit to come up.

Mr. FRANK.—Q. You declined when you were requested to; is that the fact? A. Yes, sir.

Q. And your present position is that of one who is not willing to testify in this matter on behalf of the libelant?

Mr. McCLANAHAN.—I object to that as not warranted by anything that is shown by this witness' prior examination, entirely uncalled for, and for the life of me I cannot see the drift of the examination.

Mr. FRANK.—You will see it very shortly.

Q. Answer the question, Mr. Hough.

(Testimony of Edward S. Hough.)

A. I have refused to testify on behalf of the United Engineering Works.

Q. You are present this morning also under the same compulsion as last time?

A. I am. [1195—1107]

Q. I understood you last time to say that you were Surveyor of the Bureau Veritas? A. Yes, sir.

Q. In that capacity I presume it is your business to keep informed concerning the vessels in port, their condition, repairs and things of that kind?

A. Yes, sir.

Q. At the time of the repairs here in question on the steamer "Hilonian," were you over at the United Engineering Works?

A. Yes, sir, but not at that vessel.

Q. You were there on other business?

A. Yes, sir.

Q. You saw what was going on on that vessel at that time? A. No, sir.

Q. You saw the nature of the work that was going on, did you not?

A. I was not on board of the "Hilonian."

Q. That is not an exact answer to my question, Mr. Hough, and I should like to have you answer the question. Whether you were on board or not is not the question.

A. I saw more or less engine work on trucks being conveyed to and from the machine-shop.

Q. And from what you saw you were able to form some judgment as to the nature of the work that was being performed on those engines, were you not?

(Testimony of Edward S. Hough.)

A. Do you mean the character or extent of the work?

Q. Both or either?

A. I don't consider that I saw sufficient to enable me to state accurately either.

Q. That is, you would not be able to state accurately the extent of the work or accurately the character of the work? A. No, sir.

Q. But you saw enough to know in a general way both, did you not?

A. An inaccurate way. Can I go further on that?

Q. If you have anything further to say? [1196—1108]

A. I should not have known the value of the work unless I had seen the bills.

Q. I do not exactly understand the answer, Mr. Hough. Will you explain it a little further?

A. The first time I had any knowledge of the extent of the work there was when I saw the bills in your office under my subpoena.

Q. But the nature of the work you knew from what you saw at the iron works while it was going on, did you not?

A. I knew there was engine work going on, Mr. Frank.

Q. The nature of the engine work you knew from what you saw at that time? A. To some extent.

Q. Subsequently, Mr. Hough, were you applied to by the Matson Navigation Company for the purpose of doing any work in their behalf with respect to the facts of this case in litigation?

(Testimony of Edward S. Hough.)

A. I was asked if I would serve them in this case.

Q. You were asked if you would serve them in this case. Who applied to you for that?

A. Mr. Diericx.

Q. What passed between you and him in that respect?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I told him that I would rather not serve.

Mr. FRANK.—Q. Give us the entire conversation.

Mr. McCLANAHAN.—I object to it as immaterial, and having no bearing on the issues of the case.

A. I don't remember.

Mr. FRANK.—Q. What did he ask you to do in that connection?

Mr. McCLANAHAN.—I object to that as immaterial.

A. He asked me if I would make him some estimates.

Mr. FRANK.—Q. Some estimates of what?
[1197—1109]

A. Of the values of the repair work.

Q. Of the values of the repair work?

A. Yes, sir.

Q. Did you go into detail as to the nature of the estimates that he required?

Mr. McCLANAHAN.—The same objection.

A. No, sir.

Mr. FRANK.—Q. What was your reply?

A. Just as I stated, that I would rather not serve.

(Testimony of Edward S. Hough.)

Q. Was not your reply more specific than that, Mr. Hough?

Mr. McCLANAHAN.—The same objection.

A. It may have been more extensive; not more specific.

Mr. FRANK.—Q. You gave him a reason, did you not, for not being able to do it?

A. I think I said something about being a friend of both parties, and I would rather not serve.

Q. Now, as a matter of fact, Mr. Hough, did you not tell him that it would be impossible for anybody to make anything near an accurate estimate of the value of that work?

A. I don't remember having stated that, Mr. Frank.

Q. Did you state something to that effect then?

A. I may have done so.

Q. Now, don't you recall, Mr. Hough, that you did tell him it would be impossible for anybody to make an estimate upon that work, that would be of any value?

A. I may have suggested to Mr. Diericx that I considered it impossible to determine accurate valuations upon repair work which I had never seen.

Q. Did you not state it broader than that, Mr. Hough?

A. I may have stated that it is impossible to make estimates on work which I have never seen.

Q. To make estimates on work which you have never seen? [1198—1110] A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Did you not also tell him at that time that it was impossible for anybody to make any estimates on any repair work that they had not seen done?

A. I cannot say.

Q. Is it not your opinion at the present time that that is the fact?

A. I have found it unsatisfactory.

Q. Unsatisfactory? A. Yes, sir.

Q. In other words, it is not possible in your opinion for anybody to make estimates upon the repair work that they have not seen done?

Mr. McCLANAHAN.—I will have to ask Mr. Frank what is the object of this examination. Is it rebuttal, anticipated rebuttal of our evidence?

Mr. FRANK.—Yes, that is what it is. The man is going to be away and we do not know just exactly when we will be able to get him. While we do not know exactly what your evidence is going to be, we have had some intimation that it will be of that character, and we want to use the evidence of this man if it is possible.

Mr. McCLANAHAN.—We shall have to object to the question on the ground of its materiality.

Mr. FRANK.—Q. Read the question, Mr. Reporter.

(The Reporter reads the question.)

A. It is improbable they would arrive at correct values unless by guess.

Q. And as a result of that, Mr. Hough, three or any other number of men making estimates of such work independent of each other, would be sure to

(Testimony of Edward S. Hough.)

arrive at as many different results, would they not?

A. That is uncertain.

Q. What?

A. That would be uncertain. [1199—1111]

Q. What do you mean by it would be uncertain?

A. Because it is possible by guess as I suggested.

Q. Their guess, most likely every one of them would be different, would it not?

A. I cannot tell what a man may guess, Mr. Frank.

Q. Is that the best you can do with it?

A. If I say anything else I am committing myself to something that I would have to guess at myself.

Q. In your experience, Mr. Hough, as a matter of fact, have you not known in attempts at estimating in that way, that the estimate would be as much as fifty and sometimes one hundred per cent out of the way?

A. I cannot answer that question.

Q. Why? Have you had no experience on the subject?

A. Yes, sir, but 100 per cent is an awful lot.

Q. What percentage would you fix?

A. I have seen a rough estimate as correct as a carefully made estimate.

Q. Go on.

Mr. McCLANAHAN.—I object to the witness going on until there is a question put to him.

Mr. FRANK.—Q. Go on and answer the question.

Mr. McCLANAHAN.—I submit the question has been answered.

A. If I must go on—

Mr. FRANK.—Q. Give me a fair answer to my

(Testimony of Edward S. Hough.)

question, Mr. Hough.

A. In my own work I have looked at a vessel requiring repairs and made an offhand estimate which I would call an educated guess, and that estimate has been as accurate as a subsequent estimate made in detail.

Q. An estimate of repairs as extensive as this, and a vessel in the condition this vessel was? [1200—1112]

Mr. McCLANAHAN.—I object to that upon the ground that the witness has not shown his knowledge of the extent of the repairs done to the “Hilonian.”

Mr. FRANK.—Oh, yes, he has been over the whole business.

Mr. McCLANAHAN.—I submit the bill is not the criterion.

A. I was not acquainted with the condition that you refer to of the vessel before repairs.

Mr. FRANK.—Q. In the case to which you refer it was not the case of large repairs where the vessel was in a very bad condition?

A. Not so extensive as this one.

Q. Go on and answer my question fairly as originally asked. You understand it?

A. Will you read the question again, Mr. Reporter?

Q. Read the question.

(The Reporter reads the question.)

A. Does this question carry with it the fact that the estimator never saw the work?

Q. Yes, as it was being done, or the work to be

(Testimony of Edward S. Hough.)

done when the machinery is dismantled?

A. And did they see it subsequently?

Q. After it was finished? A. Yes.

Q. We will come to that afterwards. We will take that condition first.

Mr. McCLANAHAN.—I object to that as immaterial.

A. I would like to know in order to be able to answer your question if the estimators at any time saw the work?

Mr. FRANK.—Q. What do you mean by “saw the work”?

A. Either in its completed form, or any stage during its progress.

Q. How can they see it in its completed form? Do you know as a matter of fact after large repairs of that sort are done a great deal of it is covered up?

A. Yes, sir, but if they have a [1201—1113] specification and have pointed out to them what was done their estimate would be more accurate than if they did not see it.

Q. How could they have pointed out to them what was done, Mr. Hough, when you know as a matter of fact the conditions which surrounded the work at the time of its being done is something that cannot be translated and given to somebody to estimate from. You know that fact, do you not?

A. I appreciate what you state, but if an engineer tells me that a piston-rod has been taken out and has never been trued, but if he also tells me and shows me a specification which provides that the ma-

(Testimony of Edward S. Hough.)

chine-shop take the piston-rod out, trues it and puts it back again, you can have two widely different estimates on the value of that repair work.

Q. The fact of taking a piston-rod out would only be a simple element in a piece of work of the nature of what you have seen in these bills that have been presented to you?

Mr. McCLANAHAN.—I submit that there is nothing in the record to show that this witness has seen anything in these bills that would enable him to answer the question put to him intelligently.

Mr. FRANK.—The witness will determine that for himself.

A. No. I submit this, Mr. Frank. I take the piston-rod as an instance. There is more expense at times in taking the simple operation you suggest of taking a piston-rod out than there is in trueing it and putting it back.

Q. That is true. There may be more expense, Mr. Hough, but the degree of the difference in expense depends, does it not, upon the particular conditions on board of that vessel at the time that particular piece of work was done, and varies in each vessel with the particular condition surrounding it. Is that not true? [1202—1114] A. Yes, sir.

Q. Now, you have not answered my question yet about estimates under the contract we have been talking of. You say they vary not as much as 100 per cent. How high is a percentage, would you think, as in your opinion the maximum limit?

A. I will assume that estimators are required to

(Testimony of Edward S. Hough.)

suggest the cost of certain repairs. They are handed a specification of such repairs and are shown about the engine-room or fire-room, as the case may be, what has been done. Those estimators should come within 20 per cent.

Q. Within 20 per cent? A. Yes, sir.

Q. But they might not come within 50 per cent is also a common experience, is it not?

A. I should not think it so on a piece of work as I suggest.

Q. You are assuming that the work when done is visible, are you not?

A. To a very large extent, yes.

Q. And if it is not visible the opportunity to get within 20 per cent would be a great deal lessened, would it not? A. Yes, sir.

Q. And you yourself, as I understand you, declined to undertake this because you could not conscientiously make an estimate which you think would be in any wise satisfactory?

A. I felt I could not do it justice.

Q. After you had declined to make this estimate, did Mr. Diericx offer you what you call a retainer in this case?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I don't know if that is the name for it.

Mr. FRANK.—Q. Well, he offered to pay you?

A. He did offer, yes.

Q. And what were the conditions of the payment?

A. I accepted. [1203—1115]

(Testimony of Edward S. Hough.)

Q. You accepted the payment, and that payment was for what purpose? A. Hands off.

Q. To keep your hands off of the case?

A. That is right.

Q. By that you understand you are not to render any opinion, or any services whatsoever, to the United Engineering Works with respect to the facts of this case; is that it?

A. That is what I intended to do.

Q. That was the condition as you understood what was requested of you for the money that was paid to you. Is that right?

A. I think that was my understanding at the time.

Q. You did not misunderstand what was requested of you, Mr. Hough? A. I think not.

Mr. FRANK.—Take the witness.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Hough, when Mr. Diericx first approached you it was with the request that you make an estimate on the work that had been done on the “Hilonian” by the United Engineering Works? A. Yes, sir.

Q. And I understand you declined to do that because you felt that you had not seen the work and therefore you could not make a proper estimate. Is that correct? A. I think that was so, yes.

Q. Now, did not the fact that you were friendly to the United Engineering Works also have a part in your refusal to make the estimate?

A. I think I so stated to Mr. Diericx.

Q. In other words, you are friendly to both par-

(Testimony of Edward S. Hough.)

ties, and did not care to mix in the controversy?

A. Yes, sir.

Q. And this lack of particular knowledge as to the work that had been done was a secondary consideration, was it not, or was your friendship for both parties the sole consideration for [1204—1116] your refusing to make the estimate?

A. No, sir, it was not the sole consideration. I had not seen the vessel's work to any degree, and that together with the other matter of being friendly to both parties put me under a little restraint.

Q. It gave you an excuse for declining to act for either party, did it not? A. Yes, sir.

Q. And if the United Engineering Works had come to you with a request similar to Mr. Diericx, you would have declined on the same grounds, would you not?

A. I have never considered it from that standpoint, Mr. McClanahan.

Q. Consider it now?

A. I think that might have been the case.

Q. You would have declined on the same ground that you declined to make an estimate for Mr. Diericx? A. I think so.

Q. Subsequent to this request to make the estimate, and your declination of it, is it not a fact that Mr. Diericx gave you a retainer, and by the payment of that retainer required your advice in special matters connected with this case not involving an estimate on the work necessary. In other words, did you not obligate yourself to be at the disposal

(Testimony of Edward S. Hough.)

of Mr. Diericx or the Matson Navigation Company in certain matters that did not involve the making of an estimate in connection with this case?

A. I do not think that is so.

Q. What was your purpose in accepting a retainer from Mr. Diericx? A. Neutrality.

Q. You were neutral anyway without a retainer, were you not?

A. It seems so, but I think that was our understanding.

Q. Suppose Mr. Diericx had come to you with a proposition subsequent to having paid you a retainer, and asked you your expert opinion with reference to the use of a bending slab, [1205—1117] would you have given it under that retainer?

A. Yes, sir, I would so.

Q. Was not the understanding that you were to do something in that nature if called upon?

A. I do not think that was very clearly set forth, Mr. McClanahan.

Q. Yet now you would say that if that proposition or any similar proposition had been put to you, Mr. Diericx, or the Matson Navigation Company, you would have rendered an opinion under the retainer which had been given? A. I should.

Q. Mr. Diericx understood, did he not, at the time he gave you the retainer, that you were going to be neutral in the case?

A. I do not know, I am not very clear, and there may be a misunderstanding between myself and Mr. Diericx according to these developments.

(Testimony of Edward S. Hough.)

Q. Your evidence, as I have understood it, clearly shows that you did intend to be neutral before you got the retainer?

A. I have suggested that it was likely that had the United Engineering Works asked me to serve them, it is likely that I would have excused myself.

Q. Pursue the same course you did with Mr. Diericx? A. Being friendly to both parties.

Q. Now, it was subsequent to your excusing yourself to the Matson people because of your friendliness to both parties, that you accepted this retainer?

A. I think it was the next day. Mr. Diericx asked me, I think, if I could serve to the extent of not serving the United Engineering Works,—I will not be sure of his words, and I do not wish to misquote him—and to that extent I would be neutral.

Q. Did not Mr. Diericx mention to you the possibility of requiring [1206—1118] your advice on certain matters that would not involve the estimate of the value of this work?

A. He may have done so, and if he had reminded me of that condition, and had come with a suggestion as you propose in regard to a bending-slab I would have done my best to give him an answer.

Q. You do not want to be put in the position of having taken a retainer from the Matson Navigation Company for being neutral in a matter that you probably would have kept neutral in anyway?

A. As I said before, my neutrality would be to that extent where I would not serve the United Engineering Works.

(Testimony of Edward S. Hough.)

Q. And that neutrality and that frame of mind existed before you accepted a retainer from the Matson Navigation Company?

A. Yes, sir; to a great extent. I felt friendly to both parties.

Q. Now, Mr. Hough, referring to the examination that you have undergone by Mr. Frank, do you mean to put yourself on record as saying that competent engineers, marine engineers, cannot, after having seen the work of repair which has been done on a vessel, estimate the value of that work?

A. No, sir; I do not.

Q. Is it not done every day? A. Yes, sir.

Q. Is it not the only means that your principals have of determining the value of work?

A. That is one of the means; yes.

Q. Is it not the most accurate means of determining the value of that work after it has been done, inspecting the work and accepting the opinion of experts?

A. I would not say it is the most accurate means. It is a means of checking.

Q. A means of checking what?

A. The cost of a piece of work [1207—1119] as represented by the contractor.

Q. That means is resorted to a great deal, is it not? A. In the case of experts.

Q. The use of experts in checking the work and the price of work paid by a contractor?

A. Where there is any question as to the value of the work, but it is not the custom to call an expert

(Testimony of Edward S. Hough.)

to state the value of every piece of work done.

Q. But where there is a question, that is the means of checking the work, is it not?

A. That is the means; yes.

Q. Is it not the most accurate means of doing so?

A. I know of no other.

Q. You know of no other more accurate?

A. I know of no more accurate means than employing the best man I can find to know of that particular class of work.

Q. And show him the work, telling him what was done, and letting him see what was done as far as it is possible to see it and taking his estimate. That is the most accurate means of checking the work, is it not?

A. It can only be accurate provided that that man is shown all that is done.

Q. I say it is the most accurate means of determining the value of that work?

A. I think so; yes.

Q. If that means did not exist and was not recognized, there would be no way of checking the work of a shop if it was disputed?

A. No, sir, I suppose not.

Q. Did you, Mr. Hough, have any conversation with any member of the United Engineering Works, after you had been retained by the Matson Navigation Company? A. Yes, sir.

Q. Who was it? A. Mr. Eva.

Q. What was the conversation?

A. Mr. Eva asked me if I [1208—1120] serve

(Testimony of Edward S. Hough.)

the United Engineering Works in a suit against the Matson Navigation Company.

Q. What did you tell him? A. I declined.

Q. What was the balance of the conversation?

A. He then told me that unless I could serve them at his request, it would be necessary for them to send for me.

Q. Did you not tell him why you could not serve them?

A. I don't think I told Mr. Eva that at that time.

Q. When was this conversation with Mr. Eva?

A. It would be about three weeks ago.

Q. Did he tell you at that time what he wanted in the nature of services from you?

A. He asked me if I could make him some estimates.

Q. Of what?

A. He did not state. Work, I think.

Q. Work on the "Hilonian"? A. Yes, sir.

Q. Estimates on the work that was being sued on in this case? A. He did not go any further.

Q. You understood that was it?

A. Yes, sir, I understood that.

Q. He wanted your estimates of the work that the United Engineering Works had done on the "Hilonian"? A. Yes, sir.

Q. And you declined on the ground that you had been retained already by the Matson Navigation Company? A. I let him understand that.

Q. He then said that he would have to subpoena you anyway?

(Testimony of Edward S. Hough.)

A. I do not know if he used the word "subpoena"; I think he said he would have to send for me.

Q. He would have to send for you?

A. Words to that effect.

Q. If you did not come voluntarily for the purpose of giving [1209—1121] him these estimates he would have to compel you to do so? That was the idea. A. I understood it that way.

Q. Did you have a talk with Mr. Eva after that one? A. No, sir.

Q. Did you have a talk with him before you were subpoenaed?

A. No, sir, I heard nothing more of it for several days, and I received a subpoena from Mr. Frank's office.

Q. Did you have a talk with Mr. Frank before you received the subpoena?

A. I was asked if I would go to Mr. Frank's office.

Q. Did you go? A. Yes, sir.

Q. You did? A. Yes, sir.

Q. What took place there?

A. Mr. Frank handed me a bill and asked me to make some comments on it.

Q. What was the bill? The bill sued for in this case?

A. I did not examine it. I saw it was a United Engineering Works bill and the name of the steamer "Hilonian," and I said "I cannot do it."

Q. What did Mr. Frank say to that?

A. I think he asked me why.

Q. What was it that you declined to do, to make

(Testimony of Edward S. Hough.)

an estimate of it?

A. I think Mr. Frank's words were, "Look down that bill and see if the charges are fair." I cannot quote it exactly but that is the impression on my mind.

Q. That is, he wanted an estimate on that work?

Mr. FRANK.—He did not say that.

Mr. McCLANAHAN.—Q. He wanted your opinion?

A. I think those were his words, "if the charges are fair."

Q. You declined?

A. I said I cannot do it. [1210—1122]

Q. What did he say then?

A. He asked me why.

Q. What did you say?

A. I do not think I gave any correct answer to that.

Q. Was Mr. Eva here at the time?

A. No, sir.

Q. Is that the extent of the conversation?

A. No, sir, something following that. I think Mr. Frank suggested that there had been a stopper put on.

Q. A stopper put in?

A. A stopper which prevented me doing as he required of me.

Q. That is, Mr. Frank suggested to you that you had already been retained by the Matson people?

A. I do not know whether he suggested, or actually stated so.

(Testimony of Edward S. Hough.)

Q. Then, without your informing him of the fact he advised you, as you remember it now, of his knowledge that you had been already retained by the Matson Navigation Company?

A. I am not clear enough on that situation to state so.

Q. Explain what you meant when you said that Mr. Frank suggested that there had been a stopper put in.

A. That I had been retained—it was evidently in his mind that I had been retained by the Matson Navigation Company or someone that represented them.

Q. You did not deny that, did you? A. No, sir.

Q. What was said after that? Did he still insist on your making an estimate? A. No, sir.

Q. What was said?

A. I think he told me he would serve a subpoena on me, and that was done that same afternoon.

Q. Was that all that was said in that conversation? A. I think so.

Q. Did he talk to you about the subject matter of his examination [1211—1123] this morning, at that time?

A. About this examination this morning.

Q. Yes, the subject matter of this examination.

A. I do not think so. I do not mean anything was said.

Q. You know what I mean by referring to the subject matter of the examination this morning?

A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. That is the inaccuracy of expert testimony?

A. I do not think anything was said.

Q. At that time? A. No, sir.

Q. But he informed you he was going to subpoena you after this conversation? A. Yes, sir.

Q. And he did? A. Yes, sir.

Q. And you came here and testified?

A. Yes, sir.

Q. Going back again to the time when you received a retainer from the Matson Navigation Company, did you have a talk with anyone besides Mr. Eva subsequently connected with the United Engineering Works? A. Yes, sir.

Q. With whom? A. Mr. Curtis.

Q. What was that conversation and when was it?

A. Mr Curtis called on me; it would be about 10 days ago.

Q. Who is Mr. Curtis?

A. That gentleman standing over there.

Q. Who is he?

A. He is the cashier, I believe, of the United Engineering Works.

Q. He called on you about 10 days ago?

A. I think it is about 10 days ago.

Q. And what was the object of that visit. This was subsequent, was it, to the Eva call?

A. Yes, sir.

Q. Long subsequent?

A. It was, I think, about three weeks ago that Mr. Eva called, and I think about 10 days that Mr. Curtis called. [1212—1124]

(Testimony of Edward S. Hough.)

Q. What did Mr. Curtis want with you?

A. He asked me if I would certify to the conditions of time as worked in this city for some time back into 1906 or 1907, from that time on.

Q. That is, the labor conditions here?

A. Yes, sir.

Q. What did you say to that request?

A. I said I thought I could do that.

Q. What else was said? A. That is all.

Q. Did he furnish you with any data?

A. No, sir.

Q. Either then or subsequently?

A. He furnished me no data.

Q. Did you at that time inform Mr. Curtis that you were retained by the Matson Navigation Company?

A. No, sir, not to Mr. Curtis.

Q. You made no protest to Mr. Curtis in the matter? A. No, sir, not to Mr. Curtis.

Q. Yet you knew he was asking of you data to be used in this case? A. I suspected so.

Q. And that data you have used in this case?

A. I have.

Q. Under the subpoena? A. Yes, sir.

Q. Did you tell Mr. Curtis the result of your research into that matter before you were examined?

A. No, sir.

Q. Did you tell anyone? A. No, sir.

Q. Now, referring again to the time of the retainer from the Matson Navigation Company. Besides Mr. Eva and Mr. Curtis, did you have any talk with any other man connected with the United Engineering

(Testimony of Edward S. Hough.)

Works? A. No, sir.

Q. Did you ever have a talk with Mr. Gray?

A. No, sir, not upon those matters.

Q. Not upon this matter?

A. No, sir. [1213—1125]

Q. Since your examination under the subpoena last Thursday week, October 5th, have you had any further talk with any member of the United Engineering Works? A. Yes, sir.

Q. Who? A. Mr. Eva and Mr. Gray.

Q. Anyone else? A. No, sir.

Q. Was the conversation one conversation with those two men? A. No, sir.

Q. Separate conversations? A. Yes, sir.

Q. Which was held first? A. With Mr. Gray.

Q. When was that held?

A. Immediately after the examination here.

Q. In this office? A. Yes, sir.

Q. Was Mr. Frank present?

A. Immediately after the examination, not in this office, the examination in this office being subsequent to that—immediately afterwards.

Q. That is, you had the examination on the 5th in this office? A. Yes, sir.

Q. And it was subsequently immediately that you had a talk with Mr. Gray? A. Yes, sir.

Q. Where was that?

A. In the restaurant down here.

Q. What was that conversation?

A. I just told him to leave me alone.

Q. Was it a friendly conversation?

(Testimony of Edward S. Hough.)

A. Friendly, yes. To please leave me alone.

Q. What did he say?

A. He said, "I am helpless. I have nothing to do with the case."

Q. Now, let us be a little more particular. When you first saw Gray in the restaurant, how did the conversation open? [1214—1126]

A. I raised my fist at him in a friendly way and said, "You fellows leave me alone."

Q. And he then said what?

A. "I am helpless in that case, Hough."

Q. Did he explain his reasons for that statement?

A. No, sir.

Q. Do you know what he meant? A. No, sir.

Q. Is that all the conversation? A. That is all.

Q. Subsequent to that you had a talk with Mr. Eva again? A. Yes, sir.

Q. Where was that?

A. That was in their works.

Q. Were you called there? A. No, sir.

Q. How did you happen to be there?

A. I went down to test some machinery.

Q. You are doing work for them?

A. No, sir, not for them. They are doing work for me.

Q. And what was the conversation at that time?

A. I just said the same thing to Mr. Eva as I said to Mr. Gray.

Q. And what did he say?

A. He said, "We cannot leave you alone. This is up to my attorney."

(Testimony of Edward S. Hough.)

Q. And what else?

A. I said, "Supposing I refuse to testify?" He said, "You will have to testify under a subpoena." Nothing more was said. That was in a friendly way—he happened to be standing in his office—and not in a business way. I happened to pass his office and he was standing there.

Q. Did he intimate you were going to be called again? A. No, sir.

Q. Is that the extent of that conversation?

A. All that was said.

Q. How did you know you were going to be called again?

A. Mr. Frank told me that I might be wanted again. [1215—1127]

Q. When was that?

A. When I left here, the day that he examined me.

Q. After the examination did you have a talk with Mr. Frank? A. Yes, sir.

Q. What was the nature of that conversation?

A. I told him that I was likely to go away, and I wanted to know if that subpoena lasted any more than that day. He said, "We shall probably want you again," and he asked me which day I expected to leave town, and I told him.

Q. What else? A. That is all.

Q. After that did you have any talk with anyone else about your being examined again?

A. No, sir.

Q. How did you know that you were to appear

(Testimony of Edward S. Hough.)

here to-day? A. Mr. Frank notified me.

Q. And you had had no conversation with Mr. Frank prior to that except the one immediately following your first examination?

A. Mr. Frank asked me to ring him up, which I did; and he told me he would likely want me on Friday. That was two or three days ago.

Q. Have you not had any talk with anyone about the subject matter of your examination this morning? A. No, sir.

Q. So that when you came here, you did not know what you were going to testify to? A. No, sir.

Q. The uncertainty and inaccuracy of an estimator's opinion depends largely on circumstances does it not, Mr. Hough? A. Yes, sir; I think so.

Q. If you were handed the bill which has been rendered in this case by the United Engineering Works against the Matson Navigation Company for this repair work, you could not with any accuracy, without more, determine the value of that work? [1216—1128] A. I would not attempt it.

Q. And no reputable engineer would, would he?

A. I think not.

Q. What are the circumstances under which a reputable engineer would undertake to estimate the value of work done?

A. The conditions under which the work was performed.

Q. Must be known to him? A. Yes, sir.

Q. What else?

A. And he must see the work itself.

(Testimony of Edward S. Hough.)

Q. Now, is it necessary for a qualified engineer to actually see the work if he is told about it in the engine-room—for instance, you know that in some cases the jacking worm-wheel is inclosed in a case, and you cannot see it very well. Suppose you are told that the shop has made a jacking worm-wheel, or half of one, and it is under that casing there, and you are told the size, and know the size. Can you estimate the value of that with accuracy?

A. I should need to know just how it was fitted.

Q. And if you were told just how it was fitted?

A. I could make what I would call a fair guess.

Q. A fair guess? A. Yes, sir.

Q. Is that a fair answer to make, a fair guess, to that question?

A. In estimating a piece of work, unless it can be seen we are very apt to put a large figure as the price. I am assuming we are going to contract for a piece of work. Unless we can be shown the whole thing we do err on the large side to make sure.

Q. So, then, the erring of a reputable engineer is rather in favor of the shop, is it not, than against the shop where he has not seen the work?

A. He would make sure as far as he could that there would be no loss and would keep his price up.
[1217—1129]

Q. So that these percentages that you have named would rather be on the increased cost of the work rather than on the decreased value and cost of the work? A. No, sir, not of necessity.

Q. I am speaking, now, of the estimate of a con-

(Testimony of Edward S. Hough.)

scientious, capable engineer without bias, who is called upon to give an estimate on the value of work that he sees, but that is all. Would he not err rather on the side of the increased value of a large value for that work rather than a smaller value?

A. No, sir, for the reason, if an engineer is making an estimate for a machine-shop from which they expect to close a contract and cannot see all the work, his estimate would be large and safe—

Q. Exactly.

Mr. FRANK.—Wait a moment and let him finish.

A. (Continuing.) On the other hand, some man estimating the cost of a piece of completed work put in by a competitor it would be apt to work on the other side.

Mr. McCLANAHAN.—That is human nature.

A. To a large extent.

Q. And you would not impute to a reputable man any deliberate intention of doing that kind of thing. It is human nature to favor unconsciously one side where he is interested in that side rather than in the other.

A. There is a tendency with all of us to favor the man who pays us.

Q. Supposing you as an engineer were asked to estimate the value of work already performed on a ship, repair work, and in giving your estimate you were asked whether that figure you had given would be a figure that you yourself would be willing to do the work at. Under those circumstances would the price that [1218—1130] you would place be a safe

(Testimony of Edward S. Hough.)

one or an under price?

Mr. FRANK.—I want to offer the objection that it is not a question what Mr. Hough would do because he is not making an estimate here one way or the other, and he is not in a position to do this work; the work is already done and he is not in a position of doing such work, and none of the experts that you may call will probably be in a position to do this work or be bidding on the work to be done. The hypothesis involves a set of conditions that would be impossible in this case.

Mr. McCLANAHAN.—Read the question, Mr. Reporter. (The Reporter reads the question:) By “safe,” I mean conservative on the side of the shop.

A. Should give an estimate that I would consider fair without placing myself in the position of the contractor?

Q. Did you ever do any estimating for shops?

A. Yes, sir.

Q. Do you recognize that my question applies to that situation? A. Yes, sir.

Q. Now, under that situation would your figure be one that would be conservative and safe to the shop?

A. If I were estimating for the machine-shop I should estimate sure.

Q. So that they would not lose any money?

A. So that they would not lose any money.

Q. How long have you been engaged in the business in San Francisco of a marine surveyor and engineer? A. 21 years.

Q. You are pretty well acquainted then with the

(Testimony of Edward S. Hough.)

men in your line of business, are you not?

A. Yes, sir.

Q. How many are there in the city of reputable marine engineers [1219—1131] capable of giving an estimate on the repair work to ships?

A. I could not answer that question.

Q. Do you mean to say you do not know of any?

A. You ask me a very difficult question.

Q. Why?

A. You ask me how many reputable engineers are there.

Q. You do not know how many reputable engineers there are here?

A. I would not like to describe anybody as disreputable.

Q. I am not asking you to describe anybody as disreputable.

A. I do so if I answer your question. I must leave out some that are other than reputable.

Q. By the use of the word "reputable" I mean "capable"—men of capability.

A. I think all those practicing.

Q. All practicing here are capable of estimating on repair work to ships? A. Yes, I think so.

Q. Now, will you tell us who you have in mind?

A. The surveyors for the classifications.

Q. Please name them. A. There is Lloyd's.

Q. Name the men, please.

A. Do you wish engineers or hull men?

Q. Engineers.

A. Mr. Stewart of Lloyd's; I believe Mr. Evers of

(Testimony of Edward S. Hough.)

the "American Record," and there are others not attached to the Registers.

Q. Tell me who they are.

A. There is Mr. Tabrett, Mr. Gardner. There is Mr. Diericx. I think that is all with whom I come in contact.

Q. Do you know Mr. James Dickie?

A. I do; yes.

Q. Mr. George Dickie, I mean.

A. I know of him but I do not have business with Mr. George Dickie.

Q. So you do not know if he could be classed among the men who could do this estimating?

A. I would not leave him out, [1220—1132] but I did not think of Mr. George Dickie at the time.

Q. Do you wish to insert him now?

A. Yes, sir.

Q. What about Mr. Forsyth?

A. Mr. Forsyth is another one that I omitted.

Q. What about Mr. Creigler?

A. I am not acquainted with Mr. Creigler's ability in this respect.

Q. What about Mr. Heynemann?

A. I am not acquainted with his ability in this particular work.

Q. What about Mr. Humphreys?

A. I think he is attached to the service, is he not? He is not a practicing engineer.

Q. I do not care whether he is practicing or not, if he has the ability to estimate on repairs.

A. They are legion if that is the case.

(Testimony of Edward S. Hough.)

Q. They are legion in this city?

A. I suppose so, if you wish to include all the engineers capable of making an estimate.

Q. Mr. Humphreys is one, is he not, that can do the estimating? A. Yes, sir.

Q. You know what Humphreys we refer to?

A. Yes, sir.

Mr. FRANK.—I do not.

Mr. McCLANAHAN.—Q. What are his initials?

A. I don't know his initials, but it is Mr. Humphreys, formerly of the transport service.

Mr. FRANK.—I know him.

Mr. McCLANAHAN.—Q. Aside from these we have suggested to you there are a great number who are not in the business actually but who have the capability of doing estimating, are there not?

A. I should think so, Mr. McClanahan.

Mr. McCLANAHAN.—That is all. [1221—1133]

Redirect Examination.

Mr. FRANK.—Q. Now, Mr. Hough, coming back for a moment to the conversations that you had with representatives of the United Engineering Works, you said that when you came up here that I suggested that you had a stopper on you. Is this not the exact and entire conversation between us: you came here and I presented the bill to you, and asked you if those prices were right? A. Yes, sir.

Q. And you said you could not answer me?

A. Something to that effect, yes.

Q. And I asked you why, and you said, "I am retained by the other side.

(Testimony of Edward S. Hough.)

A. Well, I may have said so, Mr. Frank. I do not deny it.

Q. And I asked you then what the extent of your retainer was, did I not?

A. You may have asked me that.

Q. And you said to me, "To keep my hands off of the case, and not to act for either side." Is that not it? A. To be neutral.

Q. Was that not the conversation?

A. I think I used the words "hands off"; I think I did.

Q. Hands off? A. I think I did.

Q. Then I asked you what you meant by "hands off" and you said "not to act for either side"?

A. I do not think I said that. I think I said neutrality.

Q. That was the entire conversation, was it not?

A. Yes, sir.

Q. I did not suggest that there was a stopper on you? A. No, sir, but you called it a stopper.

Q. After you told me? A. That may be.

Q. Not at first?

A. I do not think you did first. I do not think I have so implied. I did not intend to. [1222—1134]

Q. That was the understanding of counsel when he examined you, from the trend of his questions. Now, when Mr. Eva came down to see you, did he ask you for an estimate on the job?

A. He asked me if I could make him some estimate.

Q. That is what he asked you? A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Did he not particularly ask you about the prices charged, and the nature of the charges with respect to labor? A. That was subsequently.

Q. The first time he asked you about the estimates? A. Yes, sir.

Q. That must have been a long time ago, was it not? A. No, sir.

Q. Did you have only two conversations with him?

A. Only one in the office.

Q. Only one? A. Yes, sir.

Q. And that was all the conversation between you? A. No, sir.

Q. What was the rest of it?

A. As I have stated here.

Q. I do not recall it now. I had my mind fixed on this question of estimates.

A. He referred to the necessity of sending for me.

Q. Did he ask you about the prices charged?

A. No, sir, he did not ask me about the prices charged.

Q. Did he ask you about the condition of the labor charges?

A. He saw me subsequently, I think, but I am not sure if it was in the office, and he asked me if I recollected the labor conditions existing at some specified time. I forget now just when it was. I reviewed it in my mind and I think I suggested to him the period over which the labor troubles had existed from the time of the 10 hours to the present 8 hours. [1223—1135]

Q. Now, turning from that for a moment back to

(Testimony of Edward S. Hough.)

the legion of competent engineers to make estimates on ship work, Mr. Hough. From your knowledge of these men, how many of them, if you have work to do, would you employ for estimates upon ship repairs?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Not the whole.

Mr. FRANK.—Q. Not the whole of the legion, would you? A. No, sir.

Q. You would not employ Mr. Humphreys, for instance?

A. I have never had any occasion which would cause me to have a poor opinion of his ability.

Q. You have never known any occasion where he has made any estimates where you could in any wise determine his ability, have you?

A. No, sir, I have not been associated with any work with which he has been connected?

Q. And he has not been associated with any commercial work in this port?

A. My only knowledge of Mr. Humphreys was when he was connected with the transport service.

Q. And that was long after the war, for a short time he was down on the transport dock; is that right?

A. That was subsequent to the war, and on the transport dock.

Q. Mr. Creigler, you had no connection with, so as to know whether or not he is a man whom you would employ in such work, would you?

(Testimony of Edward S. Hough.)

A. I have had considerable business with Mr. Creigler at the Fulton Iron Works.

Q. At the Fulton? A. Yes, sir.

Q. Well?

A. He was outside superintendent for the works, and we did a great deal of work on small vessels at that establishment.

Q. But not on which he had been figuring?
[1224—1136]

A. I don't know who did the figuring.

Q. He was kind of outside superintendent on small vessels there?

A. My connection with him was in that respect.

Q. By the way, the Fulton failed, did it not?

A. The Fulton went out of business.

Q. It failed, did it not? A. I do not know.

Q. Can you recall anyone else save these gentlemen who are connected with the Records, that you have mentioned, and Mr. Tabrett, Mr. Gardner, Mr. George Dickie, and Mr. Forsyth, who would be in any real sense available for that purpose?

A. When I used that word "legion" I had in mind the fact that a good many steam schooner owners will call on their chief engineer of the vessel to make them an estimate of anticipated repairs, and they will act on his suggestion as to values, so I suppose they would be "legion."

Q. Whether this selection is wise or unwise, you are not able to state?

A. I know nothing of it.

Q. Any man can make a guess?

(Testimony of Edward S. Hough.)

A. Some make guesses and some make estimated guesses.

Q. And the educated guess is a guess just the same? A. Yes, sir, only in a different degree.

Q. You were asked if this educated guess of an engineer who is told what work is being done, and so forth, is not the most accurate and only means of an owner determining the value of the work after it is done. Now, I will ask you whether or not the most accurate means is that of the estimate of the engineer or timekeeper who is put on the job and sees every detail of it, as it progresses.

Mr. McCLANAHAN.—I object to that upon the ground that the witness has shown no familiarity with the degree of competency of the supposed engineer and timekeeper, and that that necessarily [1225—1137] would have to be known to the witness before he could answer the question.

Mr. FRANK.—Q. Answer the question, Mr. Hough, in its present form.

A. I realize that if an engineer orders the work day by day and checks the time day by day, he is in a better situation to judge of what is actually done than the man who is not there all the time.

Q. And in a better situation to give the true value of the work that was done, is he not?

A. He can certify to time worked and material employed, but it does not follow that he knows the value of material.

Q. If he is a competent man, a first-class engineer in his business, he would know it?

(Testimony of Edward S. Hough.)

A. If he is the same class of man that you gentlemen have referred to as competent to pass on the value of work and is given all the advantages of checking it, yes.

Q. That would be an accurate determination of the value better than anything else that can be conceived, is it not? A. Of necessity it would be the closest.

Q. Do you know Mr. Putzar? A. I do.

Q. You know he was superintendent of the Ocean Steamship Company's steamers? A. Yes, sir.

Q. You consider him a competent man, do you not?

A. I have no occasion to judge of him.

Q. What is his reputation, if you know it at all?

Mr. McCLANAHAN.—I object to that as immaterial. Mr. Putzar is not in this case so far as I know it. We should be glad to have him called now. We cannot get hold of him.

Mr. FRANK.—Yes you can. Do not say that.
[1226—1138]

Mr. McCLANAHAN.—We have tried to, and Mr. Putzar has declined to see us.

Mr. FRANK.—You can make that statement if you please. You have got Mr. Putzar, and you have had every detail from him in this business. You can get him any time you want him.

Mr. McCLANAHAN.—Not only do I make the statement, but I will prove it.

Mr. FRANK.—Very well. We will see whether you will or not. You not only can get him, but you have got control of him so that no one else can get him.

(Testimony of Edward S. Hough.)

Mr. McCLANAHAN.—We deny that most emphatically.

Mr. FRANK.—Q. Now, just answer the question, Mr. Witness.

A. Mr. Putzar is a competent marine engineer.

Q. By the way, you have included Mr. Diericx in this list as a competent engineer. Not wishing in any wise to attempt to discredit Mr. Diericx' claim to that—

Mr. McCLANAHAN.—Do not restrain yourself.

Mr. FRANK.—Thank you.

Q. —I just wish to ask you on what ground you place him in that class.

A. When I was asked that question I was asked for the names of men who were competent to make these estimates.

Q. Mr. Diericx has already in this case disavowed that competency, and says he is not an engineer but a marine architect.

A. I know him to be a naval architect. I believe Mr. Diericx capable of making estimates on engine work.

Q. You have taken part, Mr. Hough, in competitive bidding for repair work, have you not?

A. Yes, sir.

Q. And making estimates? A. Yes, sir.

Q. And the estimates that have come in on any particular work vary very largely, do they not, one from the other?

A. They are very apt to at times. [1227—1139]

Q. They do, generally?

(Testimony of Edward S. Hough.)

A. Not generally; sometimes.

Q. In a large piece of work they do a good deal, do they not? A. According to conditions.

Q. We will assume that a vessel is in a very bad condition internally, and of course she is not taken apart when the estimates are made.

Mr. McCLANAHAN.—I object to the assumption.

A. Yes, sir.

Mr. FRANK.—Q. Under those conditions estimates vary very largely, do they not?

A. They would be wild.

Q. Necessarily so, because the conditions cannot be known to the people? A. Yes, sir.

Q. I suppose you have known of many cases, have you not, in which on such estimates the shop has made very large losses, have you not?

Mr. McCLANAHAN. I object to that as immaterial.

A. I have heard them state that they have made losses.

Mr. McCLANAHAN.—I ask that the answer be stricken out as hearsay.

Mr. FRANK.—Q. Well, from your knowledge of what the work actually cost in cases where you have overseen the work, you have known that they must have made very large losses, have you not?

A. I have seen cases where I think the shop has not come out even.

Q. That is a very conservative way of putting it, Mr. Hough. If they have not come out even have

(Testimony of Edward S. Hough.)

they not fallen many times very far below coming out even?

Mr. McCLANAHAN.—I object to that as immaterial, and further, on the ground that the witness has not shown any [1228—1140] knowledge of the shop having lost money on their estimate or contract for work? A. They have made losses at times.

Mr. FRANK.—Q. And that is because of the inability to make anything like a true estimate until the work is taken apart; is that not right?

Mr. McCLANAHAN.—Objected to as leading and suggestive.

A. Not always.

Mr. FRANK.—Q. Well, sometimes?

A. There are two reasons—two prominent reasons why a shop will sometimes make a loss. One is by underestimating the actual cost, and the other is underestimating the time necessary to complete the work, and laying themselves open to a penalty.

Q. Now, in a case where the work has been previously laid out say on specifications, and when they come to open up the vessel, they find that the specifications, in the first place, do not fit the conditions, and have to be changed to meet the conditions as they appear as the vessel is opened up? A. Yes, sir.

Q. And also where other and new work appears which never was contemplated. What effect would that have on estimates?

Mr. McCLANAHAN.—I object to the question as unintelligible.

(Testimony of Edward S. Hough.)

Mr. FRANK.—Perhaps it is to you, but not to the witness.

Mr. McCLANAHAN.—I know what you are driving at, but you are shy of putting it in an intelligent way.

A. It is usual in writing a specification, to provide against surprises.

Mr. FRANK.—That is not the question. I have given you a specific case. Take the case as given to you.

Mr. McCLANAHAN.—I object to the question upon the ground that the statement is not specific as applicable to the facts [1229—1141] shown in this case.

A. If those conditions arise during the progress of work then it is proper to reconsider the contract.

Mr. FRANK.—Q. That is a very proper answer but still give me an answer to the particular question that I have asked you. Just read the question to the witness, Mr. Reporter. (The Reporter reads the question.) Perhaps you have arrived at the same result in a different way.

A. The estimate would then be low.

Q. Well, after the work had been done, and we will assume that it is overtime work also, and that time is lost in ordering or making these changes, could anybody who was not present and saw those conditions make anything like a fair estimate of what the work did cost, even though they saw the work then completed?

(Testimony of Edward S. Hough.)

A. Wherever overtime has been worked it will be confusing.

Q. No estimate can be made with reference to it. Is that right? A. There will be confusion.

Q. By "confusion" you mean that the estimate cannot be made accurately, is that it, or with any degree of accuracy? A. It may be inaccurate.

Q. You are very conservative, Mr. Hough.

Mr. McCLANAHAN.—What do you want him to be, Mr. Frank—radical?

Mr. FRANK.—Q. Is it not sure to be inaccurate? Can you make any estimate?

A. No, sir. As I stated before, a man may sometimes make an accurate guess.

Q. How can he estimate with reference to time lost when the changes were being effected?

A. He could only by having that explained to him make a liberal allowance for it.

Q. In other words, he must make a guess on that proposition [1230—1142] pure and simple; is that right? A. To a large extent.

Q. Mr. Hough, you were asked concerning the effect of your kindly feelings towards the United Engineering Works upon your refusal to make an estimate for the Matson Navigation Company. Now, do I understand you that had anything to do with that refusal at all. Is it not a fact that your sole reason for not making an estimate for them was the fact that you did not feel that under the conditions, such an estimate could fairly be made?

Mr. McCLANAHAN.—I object to that as not

(Testimony of Edward S. Hough.)

proper redirect examination and a direct contradiction of what the witness said on both direct and cross-examination.

Mr. FRANK.—Q. Answer the question.

A. I was prompted largely, in the first place, by my friendship for the United Engineering Works to keep me away from the whole thing.

Q. That is not answering my question. When he came to you and asked you to make an estimate for them and offered to retain you, was not your refusal based entirely on the fact that you did not think you could make a fair estimate under the conditions?

Mr. McCLANAHAN.—The same objection.

A. No, sir, I stated positively to Mr. Eva that I could not serve him.

Mr. FRANK.—Q. I am talking of Mr. Diericx, not Mr. Eva.

A. I thought you meant the United Engineering Works.

Q. No. Is that not the fact?

A. I do not know, Mr. Frank, whether there was more of one element than the other.

Q. Is this not a matter of business with you, Mr. Hough? [1231—1143] A. I try to make it so.

Q. And it is not a matter of sentiment?

A. It is a matter of business.

Q. And if you thought you could have made a fair estimate on this subject, would you not have made it for the Matson Navigation Company when they applied to you, irrespective of who the other party was?

(Testimony of Edward S. Hough.)

Mr. McCLANAHAN.—I object to that as not proper redirect examination.

A. I cannot recall what I felt at the time, and I cannot reply.

Mr. FRANK.—Q. You cannot recall what you felt at the time? A. No, sir.

Q. And if you felt that kindly feeling towards the United Engineering Works, why did you take a retainer from the other side?

A. As I said before, neutrality. That is my word.

Q. Why could you not preserve the neutrality without the retainer?

A. You have pointed out it is a matter of business with me and was.

Q. And you have received that retainer so as to preserve the neutrality; is that right?

A. As I understand the word “neutrality” and as I understood Mr. Diericx at the time.

Q. And that is all there was to it?

A. Nothing more has developed.

Q. And if you thought you could have made a fair estimate for them, you would have done it for a fair compensation, would you not?

A. I cannot answer that question.

Q. Why cannot you answer the question?

A. Because I cannot recall all the feelings that prevailed at the time, business or otherwise. [1232—1144]

Q. At any rate, you told them you would not do because you knew you could not make a fair estimate?

Mr. McCLANAHAN.—I object to that as im-

(Testimony of Edward S. Hough.)

proper redirect examination.

A. I may have expressed myself in this way at the time, that it is difficult for anybody to make a correct estimate on repair work which he has not seen in progress.

Q. Did you not say more than difficult? Did you not say it is impossible?

A. I may have used the word "impossible."

Q. And that was a correct expression of your opinion on the subject?

A. If I used the word "impossible" I intended it to be correct.

Q. And you are still of that same opinion?

A. My mind has not changed on that subject.

Recross-examination.

Mr. McCLANAHAN.—Q. Your mind with regard to this conversation with Mr. Diericx is not very clear just now, is it, as to the details of it?

A. Perhaps not.

Q. Don't you remember that Mr. Diericx, when asking you to serve him, received from you this reply, that you did not care to be mixed up on either side, you representing the Bureau Veritas, did business with both parties and preferred not to be mixed up on either side?

A. Yes, sir, something to that effect.

Q. Something to that effect? A. Yes, sir.

Q. And did not Mr. Diericx at that time leave you and come back subsequently and offer you a retainer?

A. Yes, sir.

(Testimony of Edward S. Hough.)

Q. Are you clear that at this first talk with Mr. Diericx you said anything about the impossibility of estimating on the "Hilonian" work? [1233—1145]

A. I am not clear whether it was at the first or second interview.

Further Redirect Examination.

Mr. FRANK.—Q. But you are clear that it was at the interview when he finally offered you a retainer?

A. Either one or the other; I am not certain when.

Q. And the retainer was offered you after the expression of that opinion?

A. The retainer was offered to me at the second interview.

Q. After you had given an expression of that opinion?

A. I do not know whether that expression was at the first or second interview.

Q. We will assume that it was at the second interview if that would be the stronger against us, but it was after you had told him this that he gave you the retainer to keep your hands off?

A. I cannot state positively with respect to that.

Q. He was seeking an estimate from you before that, was he not, before you had given an expression to that opinion, was he not?

A. I think that is what he asked me, when he came into the office.

Q. And he had not offered you any retainer when he first came to the office?

A. I will not be sure, Mr. Frank.

(Testimony of Edward S. Hough.)

Q. I think we can leave it where it is, safely.

Mr. McCLANAHAN.—We are satisfied.

(A recess was here taken until 2 P. M.) [1234—
1146]

AFTERNOON SESSION.

[Testimony of R. H. Roberts, for Libelant
(Recalled).]

R. H. ROBERTS, recalled.

Mr. McCLANAHAN.—I will agree not to make any point in this case as to the verity of the weights found on these different stock cards if by so doing I can shorten the record and obviate the necessity of calling other witnesses to prove the weights are correct, the stock cards referred to being as follows: C3997, C3966, C3965, C3942, C3921, C3916, C3908, A1900, A1711, A1755, A1769, A1813, A1839, A1840, A1841, A1856, A1886, C2767, C2753, C2738, C2735, C2725, C2720, C2719, C2706, A1499, A9, A12, A28, A31, A34, A41, A45, A63, A94, A1027, A1098, A1115, A1146, A1175, A1194, A1212, A1217, A1229, A1231, A1233, A1236, A1247, A1248, A1253, A1269, A1296, A1300, A10, A32, A48, A74, A81, A92, A97, A1104, A1125, A1157, A1154, A1184, A1192, A1197, A1258, A1298, B7702, C6818, C6822, A6037, A6055, A6058, A6070, A6094, A6095, A6181, A6303, A6304, A6305, A6313, A6314, A6319, A6321, A6323, A6327, A6329, A6334, A6335, A6340, A6344, A6347, A6354, A6356, A2505, A2511, A2512, A2515, A2519, A2529, A2533, A2541, A2546, A2550, A2562, A2564, A2572, A2577, A2579, A2580, A2587, A2588, A2589, A2597, A2598,

(Testimony of R. H. Roberts.)

H5808, H5816, H5819, H5825, H5827, H5828, H5829, H5832, H5836, H5838, H5842, H5846, H5848, H5849, H5852, H5853, [1235—1147] H5856, H5860, H5863, H5874, H5879, H5880, H5881, C521, C533, C577, C582, C592, A937, A945, B1004, B1005, B1014, B1025, B1033, B1041, B1049, B1057, B1061, B1062, B1075, B1076, B1079, B1081, B1090, B1092, B1096, B1097, C1118, C1127, C1147, C1142, C1152, C1163, C1175, C1199, B1516, B1522, B1546, B1550, B1560, B1578, B1582, B1584, B1814, B1828, B1839, B1854, B1867, B1871, B1884, B1897, B9552, B3646, B3654, B3661, B3664, B3667, B5655, B5657, B5691, B5688, B5670, B5683, B5684, B5679, B5672, B5664, B5665, B5695, A923, A944, B3611, B5660, B5689.

Mr. FRANK.—Now, I have a stock card here, D9067, dated September 12th, 1909, charged to job 5295 “lignum vitae in stern bearing, filling ‘Hilonian,’ 200 pounds, F. D. foreman,” and I desire to prove that that is a correct entry made at the time by Mr. Dolan, of the amount of lignum vitae put in the stern bearing of that vessel.

Mr. McCLANAHAN.—I will admit that if Mr. Dolan was recalled as a witness that he would testify that he made out the card, weighed the material and furnished it to the ship.

Mr. FRANK.—I ask that the card be marked Dolan Exhibit “Q.”

Mr. McCLANAHAN.—I make that admission subject to my usual objection that it is incompetent, irrelevant and immaterial, hearsay, self-serving and

(Testimony of R. H. Roberts.)

not binding on the respondent.

(The card is marked Dolan Exhibit "Q.")

Mr. FRANK.—We also offer the cards of Mr. Dave Doig, on which he was examined and ask that they be marked Dave Doig Exhibit No. 1. [1236—1148]

Mr. McCLANAHAN.—I object to the offer of the cards on the ground that they are incompetent, irrelevant and immaterial, hearsay, self-serving and not binding on the respondent, and ask that my objection apply to each card and every card introduced in the exhibit.

(The cards are marked "Dave Doig Exhibit No. 1.")

An adjournment was here taken until Monday. [1237—1149]

Monday, October 16th, 1911.

(Proceeding before Judge J. J. DE HAVEN in regard to the time for closing the testimony.)

Mr. McCLANAHAN.—If your Honor please, nearly four months ago, on the petition of the respondent, your Honor made an order requiring the libelant in this case under the reference to have its testimony in by the 15th of August, the respondent to have its in by the 25th of August, and the libelant then to have five, or six days to be exact, within which to offer rebuttal. There was some delay occasioned by the request of the respondent in the inception of taking the evidence for the libelant. We asked for a few days' time, being engaged

in the trial of the "Selja" case, and agreed to allow the respondent four or five days of our time, running their time beyond the 15th. But notwithstanding that they commenced to take evidence on the 15th of August, and continued taking evidence in the case before the Commissioner during the whole of some days, and parts of others, with fair regularity up to the 21st of September. Since that time they have used but three days in taking the evidence of witnesses. The record is full of our protests at this delay, and counsel's excuse has been that he could not get his witnesses. It has been very annoying to us, and we are forced at this time to call the Court's attention to this matter by the way of a motion to dismiss the action for failure to prosecute under your Honor's former order, and in the event of that being denied we have filed an alternative motion asking that your Honor fix a new limit of time within which the libelant shall put on its [1238—1150] case, restricting the respondent to 10 days for putting on its case and the libelant to 5 days to put on the rebuttal, if any. We do this with a great deal of hesitancy. Our time is valuable and our office is practically tied up with this case and our clients are suffering. We are at expense holding two witnesses here; the engineer of the "Hilonian" the steamer in controversy we have held here two trips at great expense as a witness. The counsel has suggested to us that we can take his evidence, but his evidence depends on the evidence of the libelant and we have got to wait until the libel-

ant's case is in. In order to give the Court a fair idea of the record, I have prepared here a list of the hearings we have had showing how irregular they have become towards the end. This is taken from the record (handing a paper to the Court).

The COURT.—I am not disposed to dismiss the proceeding for want of prosecution, but I am disposed to make an order requiring the testimony to be submitted.

Mr. FRANK.—Will your Honor hear me just a moment. I am willing there shall be a limitation on it, but I am not willing that the representations made here shall pass unchallenged as to the manner in which the testimony is being put in. This testimony was being put in regularly and diligently up to the end of September. Every justifiable day was used. I am just as much put out as the respondent is. The necessity of so much testimony is due to the nature of the defense, putting us to the strictest proof of every little detail, and it is very difficult, indeed. I had a case set in Los Angeles for trial on the 2d day of October, for which I had to prepare, and to go to Los [1239—1151] Angeles, and so advised counsel. He consented to the cessation for that purpose. On Sunday, the 1st of October, when I was about to proceed and use my time for the purpose of preparing my case down there, I received a telegram that the case was crowded over. Immediately on the arrival of the day to which we adjourned we started in again, which was October 5th. This last week has been largely a week of holidays, and there

has only been one or two days lost. That was by reason of the fact that we could not get witnesses, and under circumstances that will be made very plain to your Honor when you come to go over the record. We were prepared to go on this morning and so notified Mr. McClanahan, but we were drawn out here. So far as the limitation is concerned I have no objection to that. We are doing everything we can, giving all our time to the putting in of this case as quickly as it can be put in. I do not wish the suggestion to be made or the impression to go out that I have not been as diligent as the circumstances of the case will permit.

The COURT.—What time is suggested in regard to the closing of this case?

Mr. McCLANAHAN.—The case has continued for 29 or 30 days of actual hearing. I am not responsible for the way in which Mr. Frank is putting in his case. I do not agree with him in the method he is pursuing, and he knows it, but it seems to me that another week should suffice for all purposes, and that five days in rebuttal should suffice for all purposes. We are willing to put on our case and defense in 10 days.

Mr. FRANK.—I have this suggestion to make: I think the [1240—1152] time for the direct testimony is sufficient, but I do not think five days in rebuttal will be sufficient because of the nature of the testimony that we understand is to be put on by the respondent. It will make it very difficult for us to meet it in five days. With that suggestion at this

time, I will take such limitation as your Honor may suggest in regard to it, and I have no doubt, under proper representations, if we are unable to put our testimony in by diligent effort on rebuttal in the time mentioned, your Honor will take that into consideration.

Mr. McCLANAHAN.—Five days was the original rebuttal limit, and counsel knew just as much about our defense then as he does now.

The COURT.—I cannot conceive why it takes so long to put in testimony in an ordinary action like this. It seems to me that 10 days to close this case now, 10 days for the defense and 5 days for rebuttal, is sufficient. I cannot conceive why it is not sufficient.

Mr. FRANK.—The cross-examination takes up as much time as the direct; the record is quite as full of one as the other. We are not entirely responsible for that.

The COURT.—I do not know. Let the order be made in that way, 10, 10 and 5.

Mr. FRANK.—Very well. [1241—1153]

Monday, October 16th, 1911.

(At 2 P. M. the taking of testimony was resumed at the office of Nathan H. Frank, Esq.)

**[Testimony of James Chandler, for Libelant
(Recalled).]**

JAMES CHANDLER, recalled for the libelant:

Mr. FRANK.—Q. Mr. Chandler, I will show you two cards, dated September 5th and September 6th, with your name on, and ask you if those are time-

(Testimony of James Chandler.)

cards made out by you for work performed on those dates, and if they are correct.

A. They are both in my handwriting.

Q. Both in your handwriting? A. Yes, sir.

Mr. McCLANAHAN.—Is this something new?

Mr. FRANK.—While it is not new, it is a part of an exhibit already in, “Adamson No. 52.”

Mr. McCLANAHAN.—Cards that he failed to identify?

Mr. FRANK.—Yes, that is all.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Chandler, who gave you the job numbers appearing on these cards?

A. The foreman.

Q. What was his name?

A. Mr. Adamson. They are marked on the work generally.

Q. Generally, but I am speaking specially of these cards? A. The foreman.

Q. On the card of September 5th, 1909, the job number is 5295, and the article worked on is “Crank brasses”? A. Bearings.

Q. Those are the main journals?

A. No, sir, the crank bearings. It is for the crank that the main-shaft is on; the crank [1242—1154] bearings for the main-shaft.

Q. Are they not the main bearings of the crank-shaft?

A. No, sir, what we call the main bearings. It is on the same shaft, but it is for the crank.

(Testimony of James Chandler.)

Q. Does this card mean the crank-pin brasses (pointing)?

A. Yes, sir, crank-pin brasses. That is what it means.

Q. Now, let us get this clear. I understand that this card here of September 5th, 1909, reading "Crank brasses" as the article worked on, should read "Crank-pin brasses"? A. Yes, sir.

Q. That is right, is it? A. Yes, sir.

Q. I show you the card of September 6th, the next day, where under 5325 you worked on crank-pin brasses. Can you explain why the numbers are different? A. No, sir, I cannot.

Q. On September 5th. It is the same work, is it not?

A. I have forgotten now, but there are two different numbers.

Q. Is it not the same work?

A. Crank-pin brasses. I might have forgotten to put in the "pin" here. It is crank brasses, though.

Q. You have identified this September 5th card as being work done on the crank pin brasses?

A. Yes, sir.

Q. I show you the card of September 6th, where work is shown on crank-pin brasses. That is the same work, is it not?

Mr. FRANK.—The same work in what respect?

Mr. McCLANAHAN.—Q. The same article worked on, is it not? A. I should judge so.

Q. You cannot explain why they have separate numbers?

(Testimony of James Chandler.)

A. It is too long ago for me to remember that now, sir. No, I cannot explain that now. [1243—1155]

Q. Well, it is out of your line, is it not, to make an explanation of why the numbers are as they are? You do not know anything about the numbers, do you?

A. The numbers are written on the box or bearing, generally, or my work as it is given to me.

Q. That could not have been this case, could it, unless the piece had two numbers on it?

A. Unless it got mixed up in some way, which they do sometimes.

Q. Do you know where the foreman gets the numbers from that he places on the work?

A. Well, I suppose from the office.

Q. From the office? A. I think so.

Q. Who in the office has charge of that work?

A. I do not know.

Q. This work shown by these cards here is friction metal work, is it not?

A. Anti-friction metal work.

Q. That is Challenge metal? A. Yes, sir.

Q. You have already testified in this case, have you not? A. I have, six weeks ago.

Q. Do you recollect testifying that you used about a ton and a quarter of Challenge metal on this "Hilonian" job?

A. In the neighborhood of that. I do not remember what it was exactly, but it was in that neighborhood, as it was the biggest job I ever done. That is the reason that I remember it. Ordinarily, I would

(Testimony of James Chandler.)

not remember a month.

Q. Have you ever seen the bill rendered in this case?

A. No, sir, or in any cases as far as I am concerned.

Q. If I should tell you that there has been billed specially in this case only 608 lbs. of Challenge metal, can you tell me why that is so? [1244—1156]

A. No, sir, I cannot.

Q. You are sure that you used over a ton?

A. It is in the neighborhood of a ton and a quarter, as I remember it, on all the work on the "Hilonian."

Q. Most of that went into the main bearings?

A. Yes, sir.

Q. And the spring bearings?

A. The main bearings and spring bearings, yes, the biggest portion of it.

Redirect Examination.

Mr. FRANK.—Q. Mr. Chandler, at the time that these cards were handed in, you knew them to be correct then, did you not, whatever your memory may be on the subject now—is that so?

Mr. McCLANAHAN.—I object to the question as improper redirect examination.

A. Yes, sir, they always come to me if I make a mistake, as I remember it. I have been reprimanded several times for making those mistakes.

Mr. FRANK.—Q. On September 6th there is a change in red ink, making it 5325. A. Yes, sir.

Q. And how is that done?

(Testimony of James Chandler.)

A. They come to the office and take me up in the shop.

Q. And go over the matter with you?

A. Yes, sir. I make mistakes sometimes.

Q. Between you you determine that is the right number, and it is changed; is that right?

A. Yes, sir, they always come out after me.

(An adjournment is here taken until to-morrow, Tuesday, October 17, 1911, at 9:30 A. M.) [1245—1157]

Tuesday, October 17th, 1911.

(An adjournment is taken until to-morrow, Wednesday, October 18th, 1911, at 9:30 A. M.) [1246—1158]

Wednesday, October 18th, 1911.

[**Testimony of Richard W. Curtis, for Libelant.**]

RICHARD W. CURTIS, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Curtis, what is your business?

A. I am employed by the United Engineering Works as chief clerk.

Q. What are your duties in that capacity, Mr. Curtis?

A. In the capacity of chief clerk it is my duty to make all the charges and take care of the entire office force. I mean by the "office force" all the time-keepers and all of the clerical force both on this side of the bay and on the other side. I issue instructions to them as to what orders to carry out in every case.

(Testimony of Richard W. Curtis.)

Q. You oversee the work of all these parties?

A. My duties are, I have charge or take charge of the time-keeping department, also of all the departments in the yard in so far as I keep in constant touch with every department regarding all the work that is going on in the yard, especially pertaining to the charges for material going on in these different classes of work. It is my duty to go over there every day and come in contact with the different foremen of the different departments in order to keep in touch with this work that is going on, no matter what job it is.

Q. You said materials. I suppose the labor also is included? A. Labor also.

Q. In the case of "Hilonian" job did you perform that work?

A. In the case of the "Hilonian" job, like any other job, I was notified that the "Hilonian" was going over to the yard to have repairs made on her, and that they would have a timekeeper on that job. I went over to the yard at the time that [1247—1159] the "Hilonian" arrived and carried the work out in the same manner that any other job was being carried out, that is, that I looked after all the material and labor, and kept in constant contact with the foremen of the different departments regarding this work.

Q. Now, with respect to the time-cards upon the work as it progressed, what connection did you have with them?

A. The time-cards, after being checked up, were

(Testimony of Richard W. Curtis.)

turned over to me each day and I would look all the time-cards over, and I would take these cards over to the yard and upon any of them that I might find anything that was in doubt, or to my mind not satisfactory, I would call in the men and the foreman connected with that department, and question them regarding these cards and also the stock cards. I would then and there straighten out whatever difficulties might arise. Also regarding the timekeeper on the various ships, and also I might mention the "Hilonian." It was my duty to keep in constant contact with these timekeepers, and to check up with them daily as to the work performed on their ships, and correct any and all errors that might occur; in other words, make a daily adjustment with the timekeeper as to the labor performed on the ship.

Q. In the case of the "Hilonian," did you do that with Mr. Putzar, the timekeeper?

A. Mr. Putzar was the timekeeper on the "Hilonian," and that being part of my duties I checked up with him daily.

Q. With reference to the lists of work and matters of that sort what connection did you have with them?

A. The lists of work: when the ships arrive at the yard certain [1248—1160] lists were made out in all cases for work to be performed on the ships, and I would set the job-numbers, that is, instruct the clerk to set the job-numbers on these lists after reading them over.

Q. Whom do you mean by the clerk?

A. I mean Mr. Sjoberg.

(Testimony of Richard W. Curtis.)

Q. He is the man that some of these men call the timekeeper?

A. Yes, sir. Copies of this list would be sent to all departments, to the foremen's office or desk, or whatever it might be.

Q. And did you keep a copy yourself?

A. I kept a copy of it myself.

Q. After the work is finished on any job, what was the method, or is the method, of incorporating those lists, or the work performed on those lists in a statement or account for the use of the office?

A. After the jobs are finished it is my duty to take up the reports of each foreman; that is, I mean by the report, this list that was issued from the office that was given to the foremen to keep track of the work. I take these reports and after checking them up with the foremen consolidate that into a heading for the charge or the bill, and then they being of no further use to us we destroy them, because if we kept them all it would take a great deal of room, and secondly, as a general rule, they are very dirty and oily.

Q. This heading, is that the heading that appears at the head of the bill as seen on "Exhibit No. 1" and the other exhibits attached to the complaint in this case (handing)?

A. These headings are the result of the consolidation of the reports of the work furnished by the different foremen of the different departments of our yard.

Q. What office do they perform as a record in the

(Testimony of Richard W. Curtis.)

office of the United Engineering Works? [1249—1161]

A. They are the original record. It is the only record that we keep.

Q. Now, with reference to the time-cards and the material cards; what is done with them?

A. The time-cards and the material cards are turned in every day, and after they are all in they are, after being checked up daily by the different foremen, turned over to me, and I also go through them. In going through these cards I refer to the lists of the different foremen, and if I see anything that is wrong with the card, or that I think might be cloudy in any way, I refer to the foreman or the man on the job. After that is done, if there is a time-keeper on the job he gets these cards to check up.

Q. That is the ship cards you are speaking of?

A. I am speaking of the ship cards, yes.

Q. After he has checked them up what becomes of them?

A. After he has checked them up, and we arrive at a satisfactory settlement for the day's work, and the cards are duly checked, these cards are not kept.

Q. You speak of the timekeeper checking them up. State whether or not in this case Mr. Putzar kept an independent record of the time.

A. Mr. Putzar, to my knowledge, kept a handbook, as all timekeepers do. What I mean by handbook is, they keep track of the men independently of our record. Then the cards were demanded each day by Mr. Putzar, and he checked them up with his hand-

(Testimony of Richard W. Curtis.)

book. I know this to be a fact, because I made it my business to ask Mr. Putzar each day if the cards were satisfactory, but in this case Mr. Putzar transcribed them onto the sheets and he checked them up on these sheets from his handbook. The time-cards were then turned over to me with these sheets, and I checked the time-cards with the sheets. [1250—1162]

Q. What did Mr. Putzar do in the way of certifying to the correctness of the sheets?

A. Mr. Putzar had a form-book and had a carbon sheet, and Mr. Putzar transcribed these cards on to the sheet. He would then sign the original, and turn it over to me after being satisfactory both to himself and to me as to its correctness.

Q. Now, with respect to the shop cards, what course would they go through?

A. The shop cards, after being duly checked up by the foremen of the different departments, were turned in to the office. I would go over the shop cards with the timekeeper in the office. What I mean by going over them is this: I would take these cards and look over the lists of work and over the individual cards of the men, and check them up. If I saw anything that was wrong in any way or doubtful I would call these men in. These cards were finally turned over to me then after due checking, and I segregated them and consolidated them in the charge that was rendered to the different ships, and to the charges rendered to the "Hilonian" in this case.

Q. What would finally become of those cards in case there was no dispute concerning them?

(Testimony of Richard W. Curtis.)

A. If there was no dispute, and we did not hear anything regarding the bill but what was satisfactory, we did not keep these cards because the accumulation was so great that we could not handle them, and they would be destroyed.

Q. How does it happen, then, that you have in your possession the cards relating to this particular job?

A. The cards in all cases are kept for a certain period. After that, if we do not hear any objection we destroy them, but if we hear that the parties concerned have any doubt as to any of the charges on the bill we keep the card pertaining to that [1251—1163] item or to that class of work.

Q. The particular cards that have been offered in evidence in this case, who segregated them?

A. The cards that were offered in evidence in this case I segregated myself personally.

Q. And in whose possession were they up to the time of their being brought here?

A. They were in my possession.

Q. Is that the usual, ordinary and customary course of keeping accounts of the United Engineering Works?

A. Yes, sir; these cards, and the timekeeper, and this manner I have explained is the usual and customary course of keeping accounts of the United Engineering Works.

Q. And the material tags? A. Yes, sir.

Q. Now, these cards, some of them, show on the face of them changes made in them. Why are those changes made in the manner in which they are made

(Testimony of Richard W. Curtis.)

instead of the changes being made by means of erasers?

A. The reason for that is, it has always been my instruction to every man that handles cards or stock order cards in the shop, that any changes that were made should be made so as to show on the cards, and not to erase any man's handwriting, or any marks that might be on that card.

Q. What, if any, supervision did you have with respect to the job numbers?

A. The list of work that is to be performed on a vessel is always handed to me, and I, as a general rule, read that work over, then instruct the timekeeper to place an order in for that work, giving that work or that particular vessel a number on which all work is to be performed covering that list.

Q. How are these numbers fixed to that list, whether in handwriting or by means of a serial number stamp? [1252—1164]

A. The job numbers are fixed on the list with a serial number stamp; the numbers upon which the work is to be performed is also given to the timekeeper, or the man who is to represent the company in performing the work.

Q. In this case that timekeeper to whom you refer was whom? A. Mr. Putzar.

Q. And those numbers were given to him?

A. The numbers on the entire job were given to Mr. Putzar.

Q. Now, have you a list of the numbers that were used upon the ship work?

(Testimony of Richard W. Curtis.)

A. The list of numbers that were used on the ship or ship work—

Q. As distinguished from shop work?

A. Yes— are on Mr. Putzar's sheets. They were inserted there from my list that I gave him.

Q. Can you segregate those numbers now?

A. No, sir; I could not.

Q. I do not mean segregate, but name the numbers.

A. I could, yes. I could by means of his lists.

Q. Well, you take his lists then, and give us those numbers from them.

A. 5295; 5297; 5296; 5318; 5346; 5360; 5325; 5394; 5398. That, I believe, is all.

Q. Did those numbers run in the shop as well as on the ship? A. Yes, sir.

Q. Are those the numbers included in Schedule No. 1 in the libel?

Mr. McCLANAHAN.—I object to the question upon the ground that Schedule No. 1 of the libel is not shown to have any job number on it. [1253—1165]

Mr. FRANK.—That is just the reason that it is competent.

A. Schedule No. 1—that is the bill here—marked "Schedule No. 1," contains all of the time and material used on the steamer "Hilonian" under those numbers I have just mentioned.

Q. Now, the other schedules all bear a number, and I will ask you whether or not those are the numbers under which the particular work under which each

(Testimony of Richard W. Curtis.)

of the other schedules was made.

A. Schedule No. 2, all of the material thereon was furnished under order 5299. Schedule No. 3, all of the material contained on this schedule was furnished under order 5528 and 1818.

Q. Page 2 of Schedule 3 was withdrawn?

A. Schedule 4, all the material and labor on Schedule 4, was performed and furnished on order 5295.

Q. Take them in their order.

A. Schedule 5, all the labor and material performed on this schedule was done under 5390. Schedule 6, all the labor and material performed on this schedule under order 5317. Schedule 7, all the labor and material performed under this schedule was performed under order 5401. Schedule 8, all the labor and material performed on this schedule was performed under order 5009. Schedule 9, all the labor and material performed on this schedule was performed under order 5389. Schedule 10, all the labor and material under this schedule was performed under 5313.

Q. Now, Schedule No. 4—5295, how does it happen that that schedule bears that number, and not a separate and distinct number?

Mr. McCLANAHAN.—I object to that upon the ground that 5295 is on its face a separate and distinct number. [1254—1166]

Mr. FRANK.—Q. I mean a separate and distinct number from the number included in Schedule 1.

Mr. McCLANAHAN.—I object to that upon the

(Testimony of Richard W. Curtis.)

further ground that the witness has not given to Schedule No. 1 a separate and distinct number. ,

A. Schedule No. 1, one of the numbers of that schedule, is 5295. The same number appears on Schedule No. 4, for the reason that the work on Schedule 4 was commenced under No. 5295. There was a price then agreed for the value of this work, and as soon as it became known to me, and also from the agency of the cards and the material cards, I took this matter up with the foremen of the different departments, and I took the time and the material pertaining to the different parts mentioned on Schedule 4 out of 5295 which belongs to Schedule No. 1. I did this by taking the cards as they were turned in each day, consulting with the foremen and the men that performed the work both as to the time and the material consumed on it, and withdrew these cards.

Mr. FRANK.—Q. The cards for the time and material which makes up Schedule 4, is not included in any of the charges in Schedule 1; is that right?

A. Yes, sir; that is right.

Q. I understand that you did that as the work went along?

A. As the work went along, as I stated.

Q. Now, with respect to the numbers on these other schedules, where there is an agreed price for the work, some of those numbers appear upon the exhibits, cards and stock cards as put in evidence. State whether or not the time and material under those numbers is at all included in the bill Schedule No. 1. A. No, sir, they are not.

(Testimony of Richard W. Curtis.)

Q. State whether or not those numbers as they appear in the [1255—1167] cards show all the work or material furnished under those numbers.

A. No, sir, they do not, only the cards that show those numbers that are in the schedule mentioned, show time on these other schedules; that is, the numbers are there, but I cannot call them off.

Q. No. 1.

A. Let me have that and I will tell you. I could explain that better by calling the numbers of the schedules off in this way, that I have presented cards here that show numbers pertaining to work on the various schedules whereon an agreed price has been set, but these cards do not show a complete record of the time put in on these agreed price numbers, for the reason that we do not keep the cards of agreed prices because they do not concern anyone other than the man that is on the vessel, or representative, who sees that the work is performed correctly. He has nothing to do with the time, and therefore we do not think there will be any dispute regarding it, and therefore we destroy them. In this case, some of the cards show these numbers for the reason that numbers contained in Schedule No. 1 are contained thereon.

Q. That is, on the cards?

A. Yes, sir; on the cards.

Q. Now, do you know a man by the name of Charles Linde, who was working at the works at this time? A. Yes, sir, I do.

Q. Where is he now?

(Testimony of Richard W. Curtis.)

A. At the present time he is in New York City.

Q. Have you ascertained that by making a search for him?

A. I searched all over for him. I went to the various places where he was employed. I went to the Stationary Engineers' Union and ascertained from the Secretary that the man was in New York City.

Q. He could not be found, at any rate, in this jurisdiction? [1256—1168]

A. Yes, sir. That is, I could not find him unless I went to New York City.

Q. Now, what is the nature of the work that he performed over there?

A. Mr. Linde was the regular engineer, the day engineer, and he was on on Sundays and holidays on the "Hilonian," that is, he run the power-house during the time that the "Hilonian" was there on Sundays and holidays. He was also on one day that Mr. Ferro was not on.

Q. Now, who pays off the men, Mr. Curtis?

A. I pay the men off.

Q. At the time that they are paid off, do they sign their clock cards?

A. The men draw these clock cards from the office and present them to me at the pay-window to be paid off. Before they receive their money they sign their name on these cards before me; and in the case of new men that have never been up to the pay-window before drawing their pay the foreman of the department identifies that man, and he signs his name in front of me.

(Testimony of Richard W. Curtis.)

Q. Generally, you are acquainted with the men in the works? A. Yes, sir.

Q. You have been paying them off for—

A. For the last 12 years.

Q. Now, I present to you two cards of Charles Linde, and ask you if that is his signature appended to it (handing). A. That is Mr. Linde's signature.

Q. I now present you the time-cards for August 29th, September 4th, 5th, 6th, 9th, 12th and 19th, and ask you whether or not those are the cards that were passed in to you on the several days therein mentioned as the cards of Charles Linde.

A. These are Mr. Linde's cards, and on the face of these [1257—1169] cards are notations—

Mr. McCLANAHAN.—I object to the witness volunteering statements not covered by the question.

Mr. FRANK.—Q. Go right on, Mr. Curtis.

A. (Continuing.) —are notations in my handwriting on the face of these cards. The reason of that is this: Mr. Linde is the regular day engineer, and when Mr. Linde turns in time for any holiday work, I have always made it my business to see Mr. Linde personally regarding it, and I have made these notations on these cards for the purpose of charging correctly.

Q. That is the notations made at the time that the card is turned in?

A. Yes, sir. As I said before, I checked these cards up daily. There is a notation on Sunday the 19th—

Mr. McCLANAHAN.—I object to further vol-

(Testimony of Richard W. Curtis.)

untary statements on the part of the witness. No question is before him.

Mr. FRANK.—Q. Go on.

A. I wish to explain the cards in detail. On Sunday, August 19th, there is a notation here by me for 23 hours steam. The reason that that is on this card is this, that Mr. Linde during his regular day's work outside of Sundays and holidays does not turn in any time-cards as he is paid by the month. This notation of 23 hours steam was placed on this card by me after questioning Mr. Linde as to the amount of time consumed in pumping steam to clean out the oil-tanks on the steamer "Hilonian."

Mr. McCLANAHAN.—I object to the statement and ask that it be stricken out as hearsay.

Mr. FRANK.—Q. And the other cards?

A. With the exception of the notations they are all in Mr. Linde's handwriting. [1258—1170]

Q. They came to you in the regular course?

A. They came to me in the regular course of business. The regular course that is pursued over at the United Engineering Works.

Q. And retained in your possession as you have stated until turned over to me? A. Yes, sir.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked "Linde's Exhibit No. 1."

Mr. McCLANAHAN.—Let me look at them.

Q. Mr. Curtis, these notations that you have referred to as being in your handwriting on these cards were placed on there as the result of information re-

(Testimony of Richard W. Curtis.)

ceived from Mr. Linde at the time?

A. They were in this way: I knew that the "Hilonian" was working overtime on these days. For that reason I went to Mr. Linde and questioned him regarding his cards as they came in each day.

Q. As the result of the information which he gave you, you made the notations on the cards?

A. I certainly did.

Mr. McCLANAHAN.—I object to the cards as incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent.

Mr. FRANK.—Q. With reference to these particular cards Mr. Curtis, state whether or not you have checked them up against the time appearing on Mr. Putzar's time-sheet for the power furnished by the power-house.

Mr. McCLANAHAN.—I object to that as immaterial.

A. I have checked them up with Mr. Putzar's time-sheets.

Mr. FRANK.—Q. And how do they compare?

A. They are correct.

Q. Of course, Mr. Putzar's time-sheet does not contain any [1259—1171] charge for time for Mr. Linde?

Mr. McCLANAHAN.—I object to the question upon the ground that the time-sheets are the best evidence of what they show.

A. No, sir; it does not.

(The cards are marked "Linde Exhibit No. 1.")

Mr. FRANK.—Q. I show you now, Mr. Curtis, in

(Testimony of Richard W. Curtis.)

order to get them straightened out first, a card of Dave Doig, Jr., of September 12th, "Adamson Exhibit 65"; September 6th, "Adamson Exhibit 64," and August 29th, "Admanson Exhibit 63," and before taking them up I will ask you where Dave Doig, Jr., now is? A. Dave Doig, Jr., is in Alaska.

Q. Have you made diligent search for him?

A. I have made every inquiry to get him.

Q. I show you these cards that I have mentioned, and ask you whether that is his handwriting, that is his signature at the head of it?

A. Yes, sir, that is his handwriting, and that is his signature.

Q. And those cards came to you in the usual course? A. Yes, sir.

Q. In the same way as the other cards?

A. Yes, sir; in the same condition.

Mr. McCLANAHAN.—Are you not going to reoffer them?

Mr. FRANK.—Yes, I will reoffer them in evidence if it is necessary. They have already been offered.

Mr. McCLANAHAN.—I should like to have them reoffered so as to make an objection.

Mr. FRANK.—Very well; they are reoffered.

Mr. McCLANAHAN.—Q. Mr. Curtis, is Dave Doig, Jr., a helper or machinist?

A. Dave Doig is a machine hand, a machinist, working on a lathe. [1260—1172]

Q. Did you ever see him write?

A. Did I ever see him write? Mr. Doig has been

(Testimony of Richard W. Curtis.)

in the employ of the United Engineering Works probably for about seven years, and I have continually seen his signature and paid him off and seen his cards.

Mr. McCLANAHAN.—We object to the reoffer of the cards upon the ground that it is incompetent, irrelevant, immaterial, hearsay, self-serving and not binding on the respondent.

Mr. FRANK.—Q. Did you know O. Haglund?

A. Yes, sir.

Q. He was employed in those works?

A. Yes, sir.

Q. In what capacity was he employed?

A. He was a punch-shear and counter-sink hand.

Q. What is his present condition?

A. Mr. Haglund is considered just at the present time weakminded. That was the reason why we let him out of the United Engineering Works. We were afraid he would hurt somebody before he got through.

Q. In other words, what you would call “nuttty?”

A. Yes, sir; you can call it that.

Q. How long was he employed in the works?

A. He was employed for about 5 or 6 months, and he was employed on and off; they employed him on and off.

Q. Did he sign his clock cards before you?

A. Yes, sir.

Q. And those are his signatures made before you on his clock-cards (handing)?

A. Yes, sir.

Q. I now present to you cards bearing his name

(Testimony of Richard W. Curtis.)

under date of August 29th, August 30th, August 31st, September 1st, September 2d, September 4th, September 7th, September 8th, September 10th, September 11th, September 12th, and September 22d, and [1261—1173] ask you whether or not the signatures on those cards are his signatures.

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, they are.

Q. Did these cards come to you in the regular order?

A. Yes, sir; they came to me under the same conditions as I explained before.

Q. And have been in your possession ever since?

A. Yes, sir; they have.

Q. From what you know of his handwriting—

A. I know his handwriting.

Q. — can you say whether the body of these cards are also in his handwriting?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir; they are in his handwriting. I also know that from checking them every day with these men, and they have been in my possession ever since.

Q. They have been in your possession ever since?

A. Yes, sir.

Mr. FRANK.—We will offer these cards in evidence and ask that they be marked “O. Haglund Exhibit No. 1.”

Mr. McCLANAHAN.—I object to the offer upon the ground that they are incompetent, irrelevant, im-

(Testimony of Richard W. Curtis.)

material, hearsay, self-serving, not binding on the respondent.

(The cards are marked "O. Haglund Exhibit No. 1.") [1262—1174]

Mr. FRANK.—Q. Did you know a man in the employ of the works at that time by the name of John Knight? A. John Knight?

Q. Yes. A. Yes.

Q. What has become of him?

A. John Knight is dead. He died as a result of an accident over there. He was injured at the yard one night working there overtime, and he was caught in the drill-press, and his arm was torn from its socket. I know that because it is my business to go to the yard when anyone is injured, as we carry employer's liability insurance, and this requires that we should get certain data concerning the man, how long he worked, how he got hurt, what was the injury, and the condition of the tool, and I know that that man worked on the part that is on his time-card, for the simple reason that I was there and I looked it over in order to get this report up properly.

Q. You mean you were at the works?

A. I was called to the works.

Q. Immediately after his injury?

A. Immediately after the man was injured.

Q. Was the man there when you got there?

A. The man was there, yes, and I had him removed to the hospital.

Q. How was his card made out?

A. I went to the tool to look over the conditions

(Testimony of Richard W. Curtis.)

under which he was injured, and I instructed the timekeeper at that time to make out his time; the article he was working on was on the tool, and it was marked. I saw him make out the time. The man was unable to write anything owing to the fact that his arm was in no condition to write.

Q. Well, did you satisfy yourself that the time was right?

A. Yes; I satisfied myself that the time was right.

Q. Is that the card that was made out at that time? A. Yes, that is the card. [1263—1175]

Mr. FRANK.—We offer that card in evidence and ask that it be marked Knight's Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant, incompetent, self-serving and not binding on the respondent.

(The card is marked "Knight's Exhibit No. 1.")

Mr. FRANK.—Q. Who was P. Larsen?

A. P. Larsen was an iron worker in our employ at that time.

Q. Have you made search for him?

A. I have.

Q. Have you been able to find him?

A. I have been unable to find him. I have gone to different places where he was employed after his discharge from our yard, and I traced him from one point to another, and I have given up the search, because they could not tell me at the last place where he went; he evidently went North; I believe he went to Alaska.

Q. Now, are these the clock cards on which he

(Testimony of Richard W. Curtis.)

signed in your presence? A. Yes, sir.

Q. I hand you the time-cards now of August 30, 31, September 1, 2, 4, 7, 8, 10, 11, 12, and ask you whether or not those cards were in his handwriting.

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, they are.

Mr. FRANK.—We offer these cards in evidence and ask that they be marked Larsen's Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, self-serving, hearsay, and not binding on the respondent.

(The cards are marked "Larsen's Exhibit No. 1.")
[1264—1176]

Mr. FRANK.—Q. Those cards came to you in the regular course? A. Yes, in the regular course.

Q. As you have already indicated?

A. Yes, as stated before, under the same conditions.

Q. Now, I show you the clock card of Charles Vaccarez, and ask you if that is the signature of that man made in your presence. A. Yes.

Q. What has become of him?

A. This man is an Italian, and after he left our employ he went into the employ of the Southern Pacific Company, and I traced him through the Southern Pacific to different section gangs, and they said he went to a cannery; outside of that I could not find him; he was a considerable time there and from the cannery he went to Alaska on one of the

(Testimony of Richard W. Curtis.)

cannery vessels.

Q. On one of the cannery vessels? A. Yes.

Q. I show you his card and ask you if that is in his handwriting. A. Yes, that is his handwriting.

Q. That came to you in the same way as the others? A. Yes.

Q. Checked up in the regular course?

A. Yes, under the same conditions.

Mr. FRANK.—We offer them in evidence and ask that that be marked Vaccarez Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, self-serving, hearsay, and not binding on the respondent.

(The cards are marked “Vaccarez Exhibit No. 1.”)

Mr. FRANK.—Q. I show you the clock card of Jack Dominick and ask you if that was signed in your presence. A. Yes.

Q. I now show you his card of September 9 and ask you if that is a card made out by him.

A. Yes. [1265—1177]

Q. Which came to you in the regular course?

A. Yes.

Q. I see a notation on the bottom; in whose handwriting is that?

A. That notation is made in my handwriting.

Q. Made when?

A. Made at the time the card was turned in, for the simple reason he has got marked “power-house” and I wanted to see what he was doing, and I looked him

(Testimony of Richard W. Curtis.)

up, and he is attending to steam lines; I noted that on there.

Mr. FRANK.—I will offer this in evidence and ask that it be marked Dominick Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, self-serving, hearsay, and not binding on the respondent.

(The cards are marked “Dominick Exhibit No. 1.”)

Mr. FRANK.—Q. Now, I show you the clock card of James Noleroth, and ask you if that was signed in your presence and if that is his signature.

A. Yes, sir.

Q. I forgot to ask you, in reference to these former men whether or not you know them to be employed at that time?

A. Yes; I knew these men to be employed at that time.

Q. What was Vaccarez's occupation?

A. Vaccarez was a helper.

Q. What was P. Larsen's?

Mr. McCLANAHAN.—Please make a note, Mr. Reporter, that counsel is handing to the witness the time-cards of these respective men as he asks the question.

A. P. Larsen is an iron worker.

Mr. FRANK.—Q. What was O. Hagland?

A. O. Hagland, he was a punch and steam and counter-sink hand.

Q. Jack Dominick?

(Testimony of Richard W. Curtis.)

A. Jack Dominick was a helper.

Q. John Knight?

A. John Knight, a machinist. [1266—1178]

Q. I now show you two time-cards of September 14 and September 20, and ask you if those are in Mr. Noleroth's handwriting. A. Yes.

Q. And came into you in the same manner and passed upon by you? A. Yes, sir.

Q. As you have heretofore testified? A. Yes.

Q. Where is Noleroth?

A. I hunted him up at his residence; he changed his residence two or three times, and he went to Los Angeles, and he went to work for some shipbuilder there, and from there he was said to have gone further south. I could not get him any further than that; they told me that his mail had been returned from Los Angeles, and that was as far as I could go with him.

Q. What was his classification?

A. He was a helper.

Mr. FRANK.—We offer that in evidence and ask that it be marked Noleroth Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant, and incompetent, hearsay, self-serving and not binding on the respondent.

(The cards are marked "Noleroth Exhibit No. 1.")

Mr. FRANK.—Q. I show you the clock cards of Edward Smith and ask you if those were signed in your presence. A. Yes, sir.

(Testimony of Richard W. Curtis.)

Q. I now show you his cards dated August 27, 28, 30 and 31, September 1, 3, 4, 7, 10, 11, 12, 14, 15, 16 and 18, and ask you if those cards came to you in the same way that the other cards did, subject to the same process of inspection.

A. Yes. They are all in his handwriting with the exception of September 4.

Q. They came to you in the manner already indicated, did they?

A. Yes, under the same conditions. [1267—1179]

Q. What is there about September 4th—anything that you remember at all?

A. My recollection of it is that the man was hurt, and the man that was working with him wrote out his card.

Q. How did you happen to—

A. Well, we don't accept a card written by another man unless we find the reason.

Q. What was his classification?

A. He was a machinist.

Mr. FRANK.—We will offer these in evidence and ask that they be marked "Ed Smith Exhibit No. 1."

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incompetent, hearsay, self-serving, and not binding on the respondent.

(The cards are marked "Ed Smith Exhibit No. 1.")

Mr. FRANK.—Q. I show you the clock card of Joe Perry and ask you if that is the signature of the

(Testimony of Richard W. Curtis.)

man made in your presence. A. Yes.

Q. I now show you his time-cards of September 12, 21 and 24, and ask you if these cards came to you in the regular course as you have already indicated.

A. Yes, they did.

Q. Have you made search for Ed Smith?

A. I made search for Ed Smith.

Q. With what result?

A. I have been unable to locate him; he has left the state, so far as I know, by looking up people that knew him and came in contact with him continually, and who knew where he was employed at various times.

Q. You have been unable to find him?

A. I have been unable to locate him.

Q. How about Perry, what has become of him?

A. Joe Perry is in the same position. He left our employ and went to the Southern Pacific on a section gang; we hunted him up from there, and they [1268—1180] claimed they had shipped him up north, but so far as they knew what camp he went to they could not tell me; that was as near as I could get to it.

Q. Are those his cards?

A. Those are his cards.

Q. Came to you in the regular course?

A. Yes, under the same conditions.

Mr. FRANK.—We offer the cards in evidence and ask that they be marked Joe Perry Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground it is immaterial, irrelevant and incom-

(Testimony of Richard W. Curtis.)

petent, hearsay, self-serving, and not binding on the respondent.

Mr. FRANK.—Q. September 14, J. Petrocelli, did that card come to you in the usual course?

A. Yes.

Q. Have you made any search for him?

A. I have, under the same conditions, in the same manner as the others, and unable to find him.

Q. Is that his card?

A. That is his card, that is his handwriting.

Mr. FRANK.—We offer that in evidence and ask that it be marked Petrocelli Exhibit No. 1.

Mr. McCLANAHAN.—We object to the offer on the ground that it is immaterial, irrelevant and incompetent, hearsay, self-serving, and not binding on the respondent.

(The card is marked "Petrocelli Exhibit No. 1.")

The WITNESS.—He was an iron worker.

Mr. FRANK.—Q. Here is one Louis Perry.

A. He is a brother of Joe Perry; that is his signature.

Q. To his clock card? A. Yes.

Q. Is that his card? A. Yes.

Q. Come to you in the same way as the other cards?

A. Yes. [1269—1181]

Q. Have you made search for him?

A. Yes, they travel together; I could not find either one of them.

Mr. FRANK.—We offer that in evidence and ask that it be marked Louis Perry No. 1.

Mr. McCLANAHAN.—We object to the offer on

(Testimony of Richard W. Curtis.)

the ground that it is immaterial, irrelevant and incompetent, hearsay, self-serving and not binding on the respondent.

(The card is marked "Louis Perry Exhibit No. 1.")

Mr. FRANK.—Q. Have you made search for C. Schmidt?

A. Yes, I made search for C. Schmidt. He was a machine hand in our employ, and after he left our employ he went to various places, and after that, from what I could find out, he went home; he lives in Peru.

Q. Is that C. Schmidt or William Smith?

A. Well, C. Schmidt. Both are related to one another. They both quit and worked in the same place after they left our yard, and I know that they went to Peru—that is what they told me.

Q. C. W. Higgins; did you make search for him?

A. I made the same search for Higgins and was unable to find him at all; he left the places where he was employed in Oakland and nobody knew where he went to.

Q. Dunn?

A. Dunn was one of our pick-up men. I understood he went home to Europe.

Q. You could not find him?

A. I could not, no.

Q. Furman?

A. Furman was also a transient man, a pick-up man, not a regular hand, and I made search for him and I could not locate him.

(Testimony of Richard W. Curtis.)

Q. Holmquist? A. The same way. [1270—1182]

Q. Reed? A. The same way.

Q. Williams? A. The same way.

Q. Albers? A. The same way.

(A recess was here taken until 2 P. M.) [1271—1182½]

AFTERNOON SESSION.

RICHARD W. CURTIS, direct examination resumed:

Mr. FRANK.—Q. I show you a card of M. W. Albers, September 12th, part of “Adamson Exhibit 137”; Williams, August 29th, September 5th, 6th and 12th, part of “Adamson Exhibits 127 and 128”; Reed, September 5th and September 6th, part of “Adamson Exhibit 122”; Charles Holmquist, September 5th, part of “Adamson Exhibit 112”; Furman, September 5th, September 6th and September 12th, part of “Adamson Exhibits 107 and 117”; William Schmidt, September 5th, 6th, 9th and 19th and August 29th, part of “Adamson Exhibits 94, 95 and 96”; Dunn, September 6th, part of “Adamson Exhibit 77”; and Higgins, September 6th, part of “Adamson Exhibit 19,” and ask you if you have compared the signatures on those cards with the clock cards signed before you, and whether the several cards are the cards of those several men for the dates in question.

Mr. McCLANAHAN.—I object to the question on the ground of its materiality, and further object to

(Testimony of Richard W. Curtis.)

it upon the ground that the witness has not qualified as a handwriting expert.

A. These cards in the handwriting of the individual employees; I have compared them with the clock cards and certify that these are the original signatures of the employees themselves.

Mr. FRANK.—Q. Did those several cards come to you in the regular order as you have already testified? A. Yes, sir.

Mr. FRANK.—I simply reoffer these cards.

Mr. McCLANAHAN.—We renew our objection on the ground that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent. [1272—1183]

Mr. FRANK.—Q. Mr. Curtis, there are certain articles charged in this Schedule No. 1 by weights, in which no weight is indicated on the stock cards. Will you tell me how the weights for those several articles are ascertained?

A. The only stock cards that were not weighed in the shop are the stock order cards for plates and angles. These are taken out of the stockroom or storeroom and measured off, and charged off by size on the card. The cards were then turned over to me and I figured them up from tables.

Q. That is, there are standard tables that give the weights of these several articles? A. Yes, sir.

Q. Just indicate or read off from Exhibit Schedule No. 1, the particular articles where the weights are ascertained in that method. A. Sheet-iron.

Q. Where is that? On the first page of that ex-

(Testimony of Richard W. Curtis.)

hibit? A. Yes, sir.

Q. Just call it off by items on the sheet that you have before you and we will use it afterwards as an exhibit.

A. Item No. 6, sheet-iron; item No. 7, steel-plates; item No. 8, channel and angle iron; item No. 9, angle iron; item No. 73—that will be the third page—checkered floor plate; item No. 74, galvanized sheet-iron. That is all.

Q. Those items you say you figured out yourself from the tables? A. Yes, sir.

Q. And the amount stated in the bill is the correct result? A. Yes, sir.

Q. How is the price of the template wood arrived at?

Mr. McCLANAHAN.—I object to that as immaterial and calling for the conclusion of the witness.
[1273—1184]

A. The template wood is charged up by the foot from the tags from the storeroom.

Mr. FRANK.—Q. At how much per foot?

A. At the rate of 8 cents per foot here.

Q. That was done by you also, was it?

A. Yes, sir.

Q. And these charges then are your own figures?

A. Yes, sir.

Q. With reference to the charges for labor on the bill of October 25th, 1910, being Schedule No. 3, page 1, how was that arrived at, Mr. Curtis?

A. The work on this bill was ordered by Mr. Putzar when he was chief engineer of the vessel.

(Testimony of Richard W. Curtis.)

Q. Subsequent to the time when the work on the other bills were made? A. No, after.

Q. I say subsequent? A. Yes, sir.

Q. After all that other work had been finished?

A. Yes, sir, Mr. Putzar ordered the various items on this bill and superintended the construction of it. The items were charged up to the job number at the bottom of this bill in the usual manner and way we have of charging such work.

Mr. McCLANAHAN.—I move that the answer be stricken out as not responsive to the question.

Mr. FRANK.—Q. That is the same as these time-cards and material cards that are already in evidence?

A. No, sir—that is in the same manner, yes. The same forms were used, the same general rule, the same method you might say that these stock order cards and labor cards were gotten together, and a charge was made out as you see it here for all the labor and material. This bill when completed was presented to Mr. Putzar by me, and he was asked if this bill be satisfactory [1274—1185] and if he would please check it up. He went over the bill, and some time afterwards, on the same day, told me that it was satisfactory, and to send the bill in to his owners, that is, the Matson Navigation Company. That being the case, that Mr. Putzar O. K.'d this bill, the material cards and labor cards were not kept but were destroyed as we considered that the engineer after passing on the bill as satisfactory, there would be no more comment about it; in fact, we have never

(Testimony of Richard W. Curtis.)

heard any comment as to this bill being wrong in any way or considered wrong in any manner.

Q. And no objection was made to it?

A. No, sir.

Q. By the Matson Navigation Company?

A. No, sir, not by the Matson Navigation Company.

Q. Is this summation of the labor made by you personally?

A. Yes, sir, in the same manner as the summation on any other bill is made.

Q. How did it happen, Mr. Curtis, that another bill was made out as shown by page 2 of No. 3, which was afterwards included in page 1 of No. 3?

Mr. McCLANAHAN.—I object to the question upon the ground that there is no evidence to show that it was afterwards included in page 1 of Schedule 3.

Mr. FRANK.—The schedule shows it on its face.

Mr. McCLANAHAN.—I do not agree with counsel. The two pages are dated differently and are numbered differently.

Mr. FRANK.—They are not numbered differently.

Mr. McCLANAHAN.—Mine is. It may not be a correct copy.

Mr. FRANK.—You have spoken about that several times, but we are not called on to give you any copy. We did that as a [1275—1186] matter of courtesy. If we have made a mistake in the copy you have had an ample opportunity to get the correct ones from the Court as they were filed.

(Testimony of Richard W. Curtis.)

A. In regard to page 2, Schedule 3, page 2 calls for the making of one low pressure piston follower; one square set of high-pressure piston rings. This work on page 2 was started and completed at our Alameda shop under job number 5528. When the vessel came into port, the piston and the rings were sent over to the city shop, and the installation was made under the city shop number 1818, with various other work that was ordered at the time that the ship was in the harbor. When the bill was being made out the two numbers 1818 and 5528 were combined into this bill Schedule 3, page 1. The bill of 5528, that is marked 5528, page 2, was cancelled on our books.

Q. Now, with reference to the charges on Schedule No. 4 and Schedule No. 9. Was there ever any question made by the Matson Navigation Company as to the correctness of those items?

A. Which items do you include?

Q. Any items on those two schedules?

A. No, sir.

Q. Did you personally present those to Mr. Saunders for approval?

A. I sent the bills in to the Matson Navigation Company, and then called on them for payment of these bills.

Q. At that time state whether or not Mr. Saunders had O. K.'d those bills.

A. At the time that I asked for payment of those bills they were taken off the file by Mr. Gregg. He looked them over and took them to Captain Saunders who was sitting at a desk close by, and asked him to

(Testimony of Richard W. Curtis.)

look over the bills and if they were right, he would pay them. He asked Captain Saunders to O. K. them.

Q. Did Mr. Saunders O. K. them?

A. Captain Saunders O. K.'d those bills. [1275½—1187]

Q. I show you two papers and ask you whose signature C. W. S. is, attached to those bills?

A. It is the signature of Captain Saunders.

Q. Was that put on at that time?

A. Yes, sir. Captain Saunders O. K.'d these two bills before me.

Q. I notice that they are marked "paid" and that is afterwards stricken out?

A. After Captain Saunders O. K.'d these bills Mr. Gregg wrote out a check and tendered it to me as payment to cover these items and several other items in that check. I took the check to my people and it did not meet with their approval. I returned the check to Mr. Gregg, and he returned these bills to me and I withdrew the bills.

Mr. FRANK.—We offer these bills in evidence and ask that they be marked Curtis Exhibit No. 1 and Curtis Exhibit No. 2.

(The bills are marked "Curtis Exhibit" and "Curtis Exhibit No. 2," and are as follows:)

[Curtis Exhibit No. 1.]

“UNITED ENGINEERING WORKS.

San Francisco, Cal. September 27, 1909.

Sold to Str. ‘Hilonian’ & Owners.

Bored out and remetal 5 spring-bearings as agreed.	\$330.00
Remetal horse shoes in thrust on one side only—plane to size—groove for oil and fit to collars—as agreed.	146.88
Grind off I. P. piston rod—as agreed.	50.00
Supply and fit in place 5-3/8" check floor plates as agreed.	50.00
New elbow in Donkey boiler stack—as agreed	40.00
	<hr/>
	\$616.88

Paid Sept. 24/09.

CWS. UNITED ENG. WORKS,
CURTIS.” [1276—1188]

[Curtis Exhibit No. 2.]

“UNITED ENGINEERING WORKS,

San Francisco, Cal. September 24, 1909.

Sold to Str. ‘Hilonian’ & Owners.

Make new smoke stack 8' x 46' Remove old
stack and install new one. Enlarge
casing below umbrella. Make new top
for breeching, and 2 turnbuckle hang-
ers.

To construction of new smoke stack remov-
ing old and installing new. \$ 900.00

(Testimony of Richard W. Curtis.)

Enlarged casting as agreed.....	60.00
Made new top for breeching and made 2 new turnbuckle hangers—as agreed	180.00
	<hr/>
	\$1140.00

Paid Sept. 24/09.

CWS.

UNITED ENG. WORKS,
CURTIS."

Q. Now that we may keep this record straight, I understood you to say that all of the time-cards and material cards on which work was performed by any of the men under the numbers which you say are charged up in Schedule No. 1, were preserved and all other cards have been destroyed? A. Yes, sir.

Q. And that there are no cards in Schedule No. 1 except those that had work on applying to that particular schedule? A. Yes, sir.

Q. Now, there was something said here by some of the men about new numbers being given to all changes that are made on the working list as they progress. I presume that is the general rule, is it not?

A. That is the general rule, and then it is not in some ways because owing to conditions. A vessel might go to the yard, and the Captain or whoever represents the concern that owns her has a certain amount of work laid out to be done. As a general rule, we give that list of work a number, and if there is any work that is departed from that list why [1277—1189] then we give that work a number. But in the case of the "Hilonian," the changes be-

(Testimony of Richard W. Curtis.)

came so numerous that it would be impossible to give every change a number, so then the work was considered collectively, that is, the job was run collectively under the numbers as mentioned in Exhibit 1.

Q. Then, does 5295 contain work not included in the original list of 5295?

A. 5295 includes a great deal more work than what was set forth in the original list that was put under the number of 5295.

Q. How does that occur?

A. In this way. When I went over to the yard, as it is my duty, I go through the different departments. The foremen stated to me there were numerous changes being made from the lists which they had. They said that there were a number of numbers placed to cover these changes. I explained to them at the time that that was under my orders. Then they stated that the changes were becoming so numerous that if I wanted to keep track of all these changes I would have to put in a great many numbers, so in order to simplify that I instructed the foreman of every department to use the numbers on the job collectively and to note on their sheets the work as they actually performed it. I also spoke of this to the President of the company on account of so many changes being made on this job, and he sanctioned my ruling.

Mr. McCLANAHAN.—I object to any conversation between the President of the company and the witness, and ask that it be stricken out.

Mr. FRANK.—Q. As the result of this, what I

(Testimony of Richard W. Curtis.)

wish to develop is whether or not 5295 contains work different from the original lists and many changes not noted. [1278—1190] A. Yes, sir, it does.

Q. Were some of these changes great deviations?

Mr. McCLANAHAN.—I object to the question as leading.

A. Yes, sir, there were many of the changes great deviations because they were brought to my attention at that time.

Mr. FRANK.—Q. Would it be possible at this date to segregate those changes?

A. No, sir, it would not. They could not be segregated.

Q. You did, however, segregate part of them under the bill as you have testified to, of Exhibit No. 4. How did you do that?

A. That was a change that was performed on 5295, and I was informed that a price has been given for that work. Immediately on this information, and as the work was progressing I went over there and called on the men that performed this part of the work and were performing it, and the foreman of their different departments, and took those cards containing the labor and the material containing these parts out of 5295.

Q. You did that at the time the work was progressing? A. Yes, sir.

Q. And had the pieces before you?

A. Yes, sir, they were in the shop.

Q. Now, you have testified this morning about the time-sheets kept by Mr. Putzar on the work as it was

(Testimony of Richard W. Curtis.)

progressing on the ship. What if anything did you do with respect to the checking up of that time with Mr. Putzar?

A. After the cards were all in and checked up—

Q. I mean as the work progresses?

A. As the work progresses?

Q. Yes.

A. Well, Mr. Putzar turned the sheets over to me and I checked them up with my cards. He stated the time he turned them over to me that the sheets were correct. I checked them up with my cards and found them to be correct. [1279—1191]

Q. I show you a series of sheets, and ask you to look on the reverse side and tell us whose signature that is to those sheets under the heading “time on board, correct. E. L. Putzar, timekeeper.”

A. That is Mr. Putzar’s signature. He was the timekeeper on the ship, the man that I checked up with.

Mr. FRANK.—Now, Mr. McClanahan, you will find that one of those time-sheets has not been delivered up to us, namely, that of September 15th, and I ask for that now. I should like to take that out of your book. You have a duplicate of it there.

Mr. McCLANAHAN.—There it is (handing).

Mr. FRANK.—Q. Is that Mr. Putzar’s signature to that time-sheet of September 15th (pointing)?

A. Yes, sir, it is.

Q. Do you remember anything about the failure to get that time-sheet?

A. I remember this about it, that Mr. Putzar, when

(Testimony of Richard W. Curtis.)

he delivered the time-sheets to me, did not deliver that sheet to me, and I asked him two or three times about it, and he said he would deliver it. I asked him at the time if the time was all right on the sheet. He said yes, and I got the cards for it returned from him. Then towards the end when he turned the sheets over to me I asked him again about it, and he said just as soon as he had them he would send that up to me.

Mr. FRANK.—Mr. McClanahan, this memorandum here “Duplicate sheet, see next page”; what are those initials, William G?

Mr. McCLANAHAN.—I do not know, Mr. Frank. I do not know anything about that writing on there.

Mr. FRANK.—William G, or Wm. G., duplicate again, and the date “10/3/11. See next page.” Do you say you do not know anything about it? [1280—1192]

Mr. McCLANAHAN.—No.

Mr. FRANK.—Who would know about it?

Mr. McCLANAHAN.—I have not the slightest idea.

Mr. FRANK.—That is someone who was checking up.

Mr. McCLANAHAN.—I have not any knowledge of that writing on there at all, Mr. Frank.

Mr. FRANK.—You do not know, Mr. McClanahan, when or how that was put there?

Mr. McCLANAHAN.—I have stated I have no knowledge at all of that writing. When the book

(Testimony of Richard W. Curtis.)

came in my possession that was on there, if I remember correctly.

Mr. FRANK.—I think not, Mr. McClanahan.

Mr. McCLANAHAN.—That is a funny statement for you to make.

Mr. FRANK.—It is not a funny statement. When I first got this book from you those checks were not there, so that is the reason that I state it, and I am trying to find out who did it.

Mr. McCLANAHAN.—You cannot find out by me.

Mr. FRANK.—Because that “10/3/11” is evidently a date, October 3d, 1911, and runs through your book.

Mr. McCLANAHAN.—What of it? That book was in my possession long before October 3d, 1911.

Mr. FRANK.—That is it, exactly. So the date mark in it was put in it after it came into your possession?

Mr. McCLANAHAN.—The October 3d may have been put in there; it seems to me in a different handwriting from the other. It is hard to tell.

Mr. FRANK.—I guess we will be able to find it out.

Mr. McCLANAHAN.—What is the materiality of it? How is that a material change?

Mr. FRANK.—I do not know how the materiality will be, but [1281—1193] I want to show that that was not the manner in which it originally came into your possession.

Mr. McCLANAHAN.—I do not object to your showing that, but I do not see the materiality of it.

(Testimony of Richard W. Curtis.)

It appears to be a statement of a fact that that is a duplicate of another page that is in the time-book. As a matter of fact, it appears to be the original of a carbon copy which still remains in the time-book.

Mr. FRANK.—That is right.

Mr. McCLANAHAN.—I can say to you, Mr. Frank, I will make no point about that writing on there.

Mr. FRANK.—That is all I want.

Q. Up to and including the first five names on September 17th on those time-sheets, do you know in whose handwriting that is?

A. These sheets are in the handwriting of Mr. Putzar the timekeeper on that job.

Q. Now, from the top of sheet 2 of September 17th, on the face of these sheets, in whose handwriting is that? A. They are in my handwriting.

Q. Are all those sheets signed by M. Putzar?

A. Yes, sir.

Q. As correct? A. Yes, sir.

Q. How did it occur that these particular sheets are in your handwriting, Mr. Curtis?

A. For this reason: the time-cards were turned over to Mr. Putzar to check up. He had them in his possession at that time, and had held them for some time, and as I needed the time-cards to make up my pay-roll, I demanded the cards of Mr. Putzar. I went to him aboard the ship for the cards, and he had the cards in pigeon-holes there, that is, on his desk arranged. He told me at that time he had checked up all the card and that they were all right, but that

(Testimony of Richard W. Curtis.)

he had not the time to enter them on the [1282—1194] sheets but he would check up the remaining day's time, and then enter them on the sheets and give the cards to me. A day elapsed, or possibly two days elapsed from that time. I went again to see Mr. Putzar regarding these cards and he told me that as soon as he got this day's time in that he would write the sheets and turn them over to me. I believe the following day he called at our office. He had in his possession our time-cards for work on the ship. He had these time-cards segregated as to classifications, and he asked me to write up the sheets for him as he did not have the time. He cautioned me against disturbing the arrangement of the cards as he had them; he had them according to the different classifications as he wished to check the time-sheets that I was to make out with his handbook. I completed it that day, and late that night or that afternoon Mr. Putzar called, took the time-cards and the sheets away to the vessel. The following day I believe it was, or possibly later, he returned them and stated that the sheets were correct, and he signed those sheets and gave me the originals.

Q. And delivered up the time-cards, did he?

A. I then after he signed the sheets checked them from my time-cards and found them to be correct.

Mr. FRANK.—Now, we offer these time-sheets in evidence.

Mr. McCLANAHAN.—We will have to ask for time to compare those sheets with our copy here. Will you grant that time, Mr. Frank?

(Testimony of Richard W. Curtis.)

Mr. FRANK.—Certainly. What do you mean by asking for time? You will have all the time you want. For what purpose?

Mr. McCLANAHAN.—Before we make our objection to the offer.

Mr. FRANK.—That is all right. [1283—1195]

Q. I notice on these sheets, Mr. Curtis, at the bottom of them in a circle is a number?

A. I have numbered them consecutively.

Q. And that is your number? A. Yes, sir.

Mr. FRANK.—Now, I will add a half number for this sheet, for the purpose of identification, that we have just received from the respondent. I will call it 66½. I suppose the whole file might be marked Curtis Exhibit No. 3.

Mr. McCLANAHAN.—I desire to object to the offer, but I should prefer before making the explicit detailed objection, to compare it with the copy which is in our possession.

Mr. FRANK.—I have no objection to that. Of course that would not be the foundation of any objection to its admissibility.

Mr. McCLANAHAN.—It might.

(The file is marked “Curtis Exhibit No. 3.”)

Mr. McCLANAHAN.—You consent to my reserving the objection for further consideration after examination of the book?

Mr. FRANK.—Yes, I do not care anything about that. I just offered you that suggestion.

Q. These time-sheets, then, are the result of the agreement between you and Mr. Putzar as to the cor-

(Testimony of Richard W. Curtis.)

rect number of hours and classifications?

Mr. McCLANAHAN.—I object to that as leading.

A. Yes, sir.

Mr. FRANK.—Q. With regard to the ship's time-cards, to whom did they go first, whether to you or to Mr. Putzar?

A. They went to Mr. Putzar first; that is, I checked them, then they were given to Mr. Putzar and he checked them up with his handbook, made out the sheets, and returned the time-cards [1284—1196] and the sheets to me.

Q. Is that the usual way for a timekeeper to do?

A. That is the usual way in my experience, and the usual way for a timekeeper to check time.

Q. When Mr. Putzar began this work of keeping the time on the ship, did you have any discussion with him or agreement with him, respecting how the hours were to be counted and charged up?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Mr. Putzar, after the first day had been worked on the ship held up the time-cards for the reason that we were working 8½ hours a day. He came to me and asked me why the men were putting 10 hours a day on their cards. I then explained to him that 10 hours were to be placed on the cards for each day's work aboard the ship, and the reasons for so doing. He agreed to that.

Mr. FRANK.—Q. The reasons were what?

A. The reason was this: that the rates aboard for ship work was \$6.00 a day for a machinist and \$4.00

(Testimony of Richard W. Curtis.)

a day for a helper, and so on, and instead of increasing the rate per hour to be charged, which would be unwieldy, we agreed to allow the rate to remain the same, or 60 cents an hour, and increased the hours on the card.

Q. So as to make up the difference?

A. So as to make up the difference.

Q. Was that the usual practice in all iron works at that time?

A. That was the usual practice in all iron works at that time.

Q. Now, Mr. Curtis, you have been at this work a great many years, have you not? A. Yes, sir.

Q. And you are familiar with the customary prices for the [1285—1197] different articles used and set forth in this bill Schedule No. 1? A. Yes, sir.

Q. State whether or not the prices charged for these several items in Schedule No. 1 are the usual and customary prices charged at this port for that class of material.

A. They were the usual and customary charges in this port at that time.

Q. Now, there are certain charges in this bill for tools. State whether or not that is a usual and customary charge in this port at that time.

Mr. McCLANAHAN.—I object to that as immaterial.

A. It was the customary charge in the port at that time, to charge all special made tools for any vessel or job whatsoever up to that job, and the people who undertook to have work performed always paid

(Testimony of Richard W. Curtis.)

for it. Another thing: On a job where we sent out hand tools, the dressing and the repairing of those tools were charged to that job as was customary, owing to the fact that the tools were in good condition when sent out on the job, and when the vessel left the tools were repaired under our own job number or cost number.

Mr. FRANK.—Q. Has everybody been in the habit of paying for that service?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, everybody that I have come in contact with.

Mr. FRANK.—Q. And you have dealt with all classes of people with reference to this, Mr. Curtis?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, I have.

Mr. FRANK.—Q. Have you ever had such a charge as that questioned before? [1286—1198]

Mr. McCLANAHAN.—I object to that as immaterial.

A. No, sir, I have never had such a charge as that questioned before.

Mr. FRANK.—Q. You have a bill here, have you not, on the “Excelsior”?

Mr. McCLANAHAN.—I object to that as immaterial.

A. I have a bill here on the “Excelsior” for an overhauling job for the Underwriters.

(Testimony of Richard W. Curtis.)

Mr. FRANK.—Q. Who was the Surveyor on that job?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Captain Pillsbury was the Surveyor. His superintendent or representative was a man of the name of Cousins.

Mr. FRANK.—Q. Do these same charges appear in that bill?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, they do.

Mr. FRANK.—Q. And accepted by them?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir.

Mr. FRANK.—I suppose, Mr. McClanahan, you would like to make a new rule at the iron works in respect to all of these details.

Q. State, Mr. Curtis, whether or not Schedule No. 1 was presented to Mr. Putzar for his approval at any time.

Mr. McCLANAHAN.—I object to that as immaterial.

A. A copy of Schedule No. 1 was given to Mr. Putzar for his approval.

Mr. FRANK.—Q. With what result?

Mr. McCLANAHAN.—I object to that as immaterial and on the further ground that Mr. Putzar has been shown to have had [1287—1199] no authority to pass upon bills or to bind this respondent

(Testimony of Richard W. Curtis.)

by any admissions as to a bill or its correctness.

A. Mr. Putzar stated that the bill was a fair bill and correct.

Mr. McCLANAHAN.—I ask that the statement be stricken out as hearsay and not binding on the respondent.

Mr. FRANK.—Now, we will have to adjourn until to-morrow morning.

Mr. McCLANAHAN.—Perhaps I had better make my objection now to the time-sheets, as you may want to clear up something.

Mr. FRANK.—Very well.

Mr. McCLANAHAN.—We object to the introduction of the time-sheets upon the ground that they are incompetent, irrelevant, immaterial, hearsay, self-serving, not binding on the respondent; and specifically we object on the following grounds:

1. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for on the ground that the entries from September 17th to September 24th, inclusive, are not shown to be in the handwriting of any agent of the respondent, and are not binding on the respondent as entries made in the usual course of business.

2. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because the evidence shows that the entries from August 23d to September 24th, inclusive, are made up from time-cards and copied from time-cards prepared by parties not in the em-

(Testimony of Richard W. Curtis.)

ploy of the respondent, and for whose acts respondent cannot be held liable.

3. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, [1288—1200] because it is admitted by the pleadings and the evidence shows that much of the labor performed and material furnished to the S. S. "Hilonian," as shown by the entries on said time-sheets, was so performed and furnished under special contracts at agreed prices.

4. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because on their face they show labor performed and time allowed for which the evidence shows that the respondent is not liable.

5. They are inadmissible as showing charges against the respondent, and as evidence of the value of the work sued for, on the ground that there is no evidence showing the authenticity of the job numbers, or any evidence showing the authority of E. L. Putzar as agent of the respondent, to place said job numbers on said time-sheets.

6. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because said time-sheets are unintelligible in this, that they do not distinguish between the number of hours actually worked and the number of hours allowed for.

7. They are inadmissible as showing charges against the respondent, or as evidence of the value of the work sued for, because said time-sheets are

(Testimony of Richard W. Curtis.)

unintelligible in this, that they do not properly or at all distinguish between the labor performed under the admitted special contracts, and the labor performed where there were no contracts. We reserve the right to make further objections after we have inspected the time-sheets and compared them with the copies in our possession.

(An adjournment is here taken until to-morrow, Thursday, October 19th, 1911, at 10 A. M.) [1289—1201]

Thursday, October 19th, 1911.

(An adjournment was taken at the request of the libelant until Friday, October 20th, 1911, at 10 A. M.)

Friday, October, 20th, 1911.

(An adjournment was taken at the request of the libelant until Saturday, October 21st, 1911, at 10 A. M.)

Saturday, October 21st, 1911.

(An adjournment was taken at the request of the libelant until Monday, October 23d, 1911, at 10 A. M.)

Monday, October 21st, 1911.

(An adjournment was taken at the request of the libelant until 2 P. M.)

AFTERNOON SESSION.

(An adjournment was taken at the request of the libelant until Tuesday, October 24th, 1911, at 10 A. M.) [1290—1202]

Tuesday, October 24th, 1911.

[Testimony of L. C. Bartmess, for Libelant.]

L. C. BARTMESS, called for the libelant, sworn.

Mr. FRANK.—Q. Mr. Bartmess, you are an engineer? A. Yes, sir.

Q. Engaged in what line.

A. I am Superintending Engineer for the Charles Nelson Company and also for Fred Linderman.

Q. And have been that for how long?

A. Nine years.

Q. In your capacity as Superintending Engineer have you had dealings with the different iron works in making repairs in this port? A. Yes, sir.

Q. And as such have become familiar with the price of materials? A. Yes, sir.

Q. In the year 1909 could you tell us what the standard price of cast-iron was in this port?

A. 4 cents a lb.

Q. Cast brass? A. 30 cents.

Q. Cast bronze? A. 35 cents.

Q. Rod-iron? A. 4 cents.

Q. Challenge metal?

A. That is babbitt metal, 45 cents.

Q. Steel plate? A. 4 cents.

Mr. McCLANAHAN.—No questions. [1291—

1203]

**[Testimony of Richard W. Curtis, for Libelant
(Recalled).]**

RICHARD W. CURTIS, direct examination resumed.

Mr. FRANK.—Q. Mr. Curtis, with respect to

(Testimony of Richard W. Curtis.)

Schedule No. 2 attached to the libel, I will ask you whether or not the prices charged for material there were the usual and ordinary prices for such material at this port at that time.

A. Yes, sir, they are.

Q. I notice at the top there one charge of \$120 for Oregon Pine. What can you say as to the nature of that charge?

A. That Oregon Pine we delivered it and charged it at cost to the Matson Navigation Company for the steamer "Hilonian."

Mr. McCLANAHAN.—Where does the schedule show any Oregon Pine, Mr. Frank?

Mr. FRANK.—The first item.

Mr. McCLANAHAN.—Where is the Oregon Pine on there?

Mr. FRANK.—O.P.

Mr. McCLANAHAN.—Q. Mr. Curtis, the "O.P." means Oregon Pine?

A. Yes, sir, the "O.P." means Oregon Pine.

Mr. FRANK.—Q. When you say you charged it at cost, you mean that is what you paid for it yourselves? A. That is what we paid for it.

Q. I see a charge also of 7 lbs. for manganesite. With respect to the amount charged there, is that in the same category?

A. Yes, sir, that is in the same category.

Q. You mean, that is what you paid for it yourselves? A. Yes, sir, just what we paid for it.

Mr. McCLANAHAN.—Does not all that come under an admission that I made?

(Testimony of Richard W. Curtis.)

Mr. FRANK.—I am not sure of that myself, Mr. McClanahan, and that is the reason I asked about it. I thought you withheld the values. [1292—1204]

Mr. McCLANAHAN.—I did not do so. Still, go ahead.

Mr. FRANK.—Q. I notice also 6 one-inch sleeves 6 cents; is that a charge for the whole six?

A. No, sir; that is 6 cents apiece; it should be 36 cents for the six.

Q. Now, with respect to Schedule No. 1, item 131, supplying bitumastic solution, \$328.

Mr. McCLANAHAN.—Is this the schedule that you handed the witness which is attached to the libel?

Mr. FRANK.—No, that is for my guidance. You can always count them down.

A. With regard to this charge for supplying the bitumastic solution I will say that I charged that at cost, or what we paid for it.

Q. That is, you hired somebody to put it on?

Mr. McCLANAHAN.—I object to that as immaterial.

A. Yes, sir, we hired other parties to put it on.

Mr. FRANK.—Q. Now, with respect to the cable that Mr. Hough spoke of as to whether or not it was rubber, item 110, No. 18 marine port cable.

A. This No. 18 marine port cable was rubber covered waterproof cable. We charged that at cost.

Q. Now, item 121, 73 feet of teak. How was the amount of that arrived at?

(Testimony of Richard W. Curtis.)

Mr. McCLANAHAN.—I object to the question as immaterial.

A. This was the amount of teak that we purchased for that job and it was cut up. There was considerable waste and this is what it cost us.

Mr. McCLANAHAN.—I object to the statement as to what it cost and ask that it be stricken out as immaterial. You have rendered your bill. [1293—1205]

Mr. FRANK.—If you admit the rendering of the bill is proof of the value of the items we have gone to a great deal of unnecessary trouble.

Mr. McCLANAHAN.—I contend you are bound by the items charged in your bill, whether it costs you that or more. It is immaterial what it costs you.

Mr. FRANK.—Q. Item 127, 250 feet of No. 14 R. C. wire. What can you say about the charge for that?

A. This item is also rubber covered waterproof cable, and is charged at cost to us.

Mr. McCLANAHAN.—I object to that as immaterial and ask that it be stricken out.

Q. Mr. Curtis, that is portable wire, is it not?

A. Yes, sir.

Mr. FRANK.—Q. Now, Mr. Curtis, with respect to the classification of the labor on Schedule No. 1, have you gone over the exhibits and cards introduced in evidence and checked up the classifications?

A. I have.

Q. And what, if anything, can you say with re-

(Testimony of Richard W. Curtis.)

spect to the classification as found in Schedule No. 1 being correct?

A. I have checked over the various exhibits in the line of the time-cards and find that the classifications are correct, but there is a variance in the hours.

Q. Due to what?

A. Some of it is due to the fact that we have time charged for various men that morally the time is all right, but when Mr. Frank spoke to these men he decided that their time was not in a condition to be technically proven.

Q. That is the cards? A. The cards.

Q. Well, with the readjusted classification will you give us the number of hours under each classification? A. I cannot offhand. [1294—1206]

Mr. McCLANAHAN.—What is that question? Read it to me, Mr. Reporter. (The Reporter reads the question.) I object to the question upon the ground that the witness has stated that there could be no proof made of the difference of the hours shown on the time-cards and the hours shown on the bill, and for that reason the proof was omitted.

Mr. FRANK.—No. The witness has not testified to that at all. You are very much mistaken.

Mr. McCLANAHAN.—He did, as I understood it.

Mr. FRANK.—Then you misunderstood the testimony. Go on, Mr. Curtis.

A. I cannot call them offhand, but I have a list here, the result of this checking, and I will read it from that.

Q. Do so. A. "Machinists"—

(Testimony of Richard W. Curtis.)

Q. This is shop time? A. Shop time.

Mr. McCLANAHAN.—What is that the witness is reading now?

Mr. FRANK.—A memorandum made by himself from the rechecking of the cards.

Mr. McCLANAHAN.—Wait a moment. I shall have to examine him on it.

Q. Mr. Curtis, you are reading from a memorandum made by yourself? A. Yes, sir.

Q. When was it made?

A. It was made within the last few days, on rechecking the time-cards.

Q. It is a résumé of the time found on the time-cards? A. Yes, sir.

Q. Different from the time charged in the bill?

A. Yes, sir, it is different in the matter of hours. There is a slight difference here and there.

Mr. McCLANAHAN.—I object to it upon the ground that it is an attempt to impeach the bill rendered to the respondent by [1295—1207] the libellant.

Mr. FRANK.—Q. That is a difference due to the facts you have already stated.

Q. Go on.

A. “Machinists, 2842½ hours; machinist and machine, 1583½ hours; machinist and large tool; 980½ hours; helpers.”

Mr. McCLANAHAN.—Q. Machinists’ helpers?

A. Machinists’ helpers. “943½ hours; blacksmith, fire and helper, 181½ hours; foreman, 284 hours; iron workers, 266 hours; rolls, 7 hours.”

(Testimony of Richard W. Curtis.)

Q. What does that mean?

A. It means the roll and the operator.

Mr. FRANK.—Q. Go on.

A. “Counter-sink, punch and shears, 173¾ hours; blacksmith, fire and hammer, 77¾ hours; crane and operator, 63½ hours; planer”—I have not anything for the planer. I cannot distinguish at the present time the workman that worked on the planer, 13 hours, but he is one of the operators that was included in the classification of 173¼ hours, in the counter-sink, punch and shears. “Draughtsman, 51½ hours; bending slab and furnace, 61¾ hours.” That is all.

Q. Running power-house at night. That was Ferro’s? A. That was Ferro’s and Linde’s time.

Q. There is no change in that? A. No, sir.

Mr. FRANK.—Take the witness.

Cross-examination.

Mr. McCLANAHAN.—Q. I want to ask you first, Mr. Curtis, about this portable cable that you testified to this morning. Do you know what that was used for? A. I do not; no.

Q. What is the portable cable usually used for at your work? [1296—1208]

A. It is usually used for making up portable lights, and vessels buy it of us to make up portables.

Q. Do you think this was bought by the “Hilonion”?

Mr. FRANK.—I object to what the witness thinks. It has nothing to do with it.

A. It was bought by the “Hilonian” at that time.

(Testimony of Richard W. Curtis.)

Q. It was? A. So far as I can recall.

Q. And taken by the "Hilonian" away when she sailed from your place?

A. That I don't know. I know that they bought it. I don't know whether they took it away or what they did with it after that.

Q. You don't know whether it came back to the works after use on the ship? A. No, sir.

Q. You don't know that? A. No, sir.

Q. Do you know whether it was used by your own workmen in doing the work on the "Hilonian"?

A. That could not have been because it would not have been charged up to the ship if it were.

Q. You do not know, though?

A. I know this much. At the time the charge was made I know they were going to use it on the ship.

Q. Who was going to use it on the ship?

A. The engineer's department.

Q. And not your employees?

A. Not our employees; no.

Q. And that statement applies to both 315 feet of No. 18 marine portable cable, and 250 feet of No. 14 R. C. wire? A. Yes, sir.

Q. I understand you, Mr. Curtis, that since our last session you have checked up the time-cards that have been introduced here in evidence, and have compared the number of hours shown [1297—1209] by the time-cards with the number of hours charged on Schedule 1 of the bill? A. Yes, sir.

Q. That is not the first time that you have checked up the cards for the purpose of finding out how many

(Testimony of Richard W. Curtis.)

hours were worked on the "Hilonian," is it?

A. I checked up the cards the first time to make up the charge.

Q. And this is the second time that you have checked them up? A. Yes, sir.

Q. What was the purpose of checking them up the second time?

A. The purpose of checking them up the second time was to make sure that I was absolutely right; of course a man is not infallible.

Q. And you found yourself to be wrong, did you?

A. Yes, sir. In some cases there are errors.

Q. Then the bill in that respect is wrong wherein it differs from the checking up that you have testified to this morning?

A. Yes, sir. The bill was never gone over or checked up with anybody interested with the steamer as regards time. That is usually done.

Q. You spoke in your direct examination this morning of certain hours being found on the cards that were morally correct, but could not be proven according to your counsel. Will you please make that a little clearer? What did you mean by that?

A. I mean by that that the men worked on the job but did not keep the time in a clear manner.

Q. You mean that is shown on the cards themselves?

A. No, sir, not those. As a timekeeper I would understand the cards.

Q. I mean this doubt, this cloud as to the time worked by the men, is that shown on the cards?

(Testimony of Richard W. Curtis.)

A. No, sir. [1298—1210]

Q. Then how do you know there is such doubt—
from your memory?

Mr. FRANK.—He told you in the direct examination.

Mr. McCLANAHAN.—Let the witness answer.

A. Mr. Frank spoke to the men who made out these cards. It was upon his decision that I withdrew the cards.

Q. How do you know he spoke to them?

A. I had the men here.

Q. You heard him speak to them? A. Yes, sir.

Q. What did he say? On this particular subject?

A. I cannot remember the exact words. We have had so many here.

Q. What did the men say?

A. I don't remember that.

Q. You do not know anything about why it was that Mr. Frank decided he could not prove certain hours of work performed by the men?

A. No, sir. I am not a lawyer.

Q. Did he attempt to tell you?

A. No, sir, he did not explain to me the technical part of it.

Q. And this time which was not capable of proof, according to Mr. Frank, is time that does not appear on the time-cards?

Mr. FRANK.—What do you mean? On the time-cards that are in evidence.

Mr. McCLANAHAN.—On the time-cards that are in evidence.

(Testimony of Richard W. Curtis.)

A. No, sir, it does not appear on the time-cards.

Q. Are there time-cards that are not in evidence pertaining to the "Hilonian" shop work?

A. There are time-cards for some of these men and some of them I have not.

Q. Please answer my question. Are there time-cards pertaining to the shop work on the "Hilonian" that you have not introduced in evidence because of the inability to make proper proof of the time?
[1299—1211]

A. Yes, sir, there are some.

Q. Please produce them. Have you got them here? A. I have not them here at present.

Q. I shall have to ask you to bring them.

Mr. FRANK.—I do not see the materiality of them inasmuch as we have not offered them in evidence and have not introduced them. I do not see why they are material, Mr. McClanahan.

Mr. McCLANAHAN.—The very purpose of injecting into this witness' evidence the fact that you have left our charges, which morally you might make, it seems to me, calls for an investigation. There was no need of injecting it into the case except for some purpose. What is it? Are you going to make the argument that the bill is less than it ought to be?

Mr. FRANK.—I do not see what the cards are going to do for you in that respect.

Mr. McCLANAHAN.—I will ask for the cards.

Q. Mr. Curtis, how long have you been employed by the United Engineering Works?

A. Between 11½ and 12 years.

(Testimony of Richard W. Curtis.)

Q. What is your age now? A. I am 30 now.

Q. So you commenced working for them when you were about 18 years old? A. About that time.

Q. Since then you have become the handyman, as it were—I do not mean it in a bad way?

A. I am Chief Clerk.

Q. The handyman of the concern?

A. I am the Chief Clerk of the concern.

Q. By “Chief Clerk” you perform a great many various duties? A. Yes, sir.

Q. How long have you performed those many duties that you have testified to?

A. I have performed these duties on and off ever since I have been there; I could not give you the exact period. [1300—1212]

Q. Your experience with the United Engineering Company has been as it were a life experience?

A. Yes, sir.

Q. You have done nothing else; is that correct?

A. I worked at various occupations before I went to work with the United Engineering Works.

Q. This was taken up by you and has become your life work? A. Yes, sir, so far.

Q. You are familiar, then, with every detail of the business of the United Engineering Works?

A. Yes, sir.

Q. I understood you to say the other day that you even hired the men? A. No, sir.

Q. You paid the men, is that it?

A. Yes, sir, I paid them.

Q. You have become familiar with the details of

(Testimony of Richard W. Curtis.)

the work done by the United Engineering Works, have you not? A. In what way do you mean?

Q. You know the different parts of a ship and the different machinery in a ship?

A. I do in a general way yes.

Q. I mean in a general way. You are not a mechanic or machinist? A. No, sir.

Q. But you have a practical business knowledge of the work done by your concern?

A. Yes, sir, I have.

Q. So that when the technical mechanical terms are used, you know what they are? A. Yes, sir.

Q. For instance, you know what eccentrics are?

A. Yes, sir.

Q. High and low pressure; intermediate cylinders?

A. Yes, sir.

Q. In other words, when you make out a bill such as you have made out in this case, you are familiar with the items that appear on the bill and know what they are?

A. Yes, sir. To the best of my knowledge I check them up and follow them up. [1301—1213]

Q. Now, in making up Schedule 1 attached to the libel here, the labor charges on that schedule, those charges were made up as far as the shop time is concerned from the time-cards themselves?

A. Yes, sir.

Q. And you had no other guide except the time-cards, to make that up?

A. The time-cards, that is all.

Q. The prices fixed on the schedule after the hours

(Testimony of Richard W. Curtis.)

worked are prices which you considered yourself familiar with at the time the charge was made as being the regular usual market prices for that class of work; is that correct?

A. Yes, sir, they were the usual market prices for that class of work at that time.

Q. And known to be such by you? A. Yes, sir.

Q. And the charges on the main body of the schedule for material, were the charges which you knew at that time to be the reasonable market charges on that day? A. Yes, sir.

Q. You knew that yourself, did you?

Mr. FRANK.—That is the same question.

Mr. McCLANAHAN.—No. One applies to labor and the other to material.

Q. Now, in regard to the ship labor time and found on Schedule 1, you made that up also from the time-cards, did you not?

A. I made them up from the time-cards and the time-sheets.

Q. What do you mean by that, Mr. Curtis?

A. I mean the time-sheets, or the record of the timekeeper of the vessel. That record each day is a settlement between the timekeeper and ourselves as to the day's time. The bill is made up from them.

Q. That is what I want to straighten out. Is the bill made up from the time-sheets or is it made up from the time-cards? [1302—1214]

A. It is made up from the time-sheets after the time-sheets are checked with the time-cards.

(Testimony of Richard W. Curtis.)

Q. Who is it that checks the time-sheets with the time-cards?

A. I check the time-sheets with the time-cards.

Q. And when you checked the time-sheets with the time-cards, did you find the time-sheets to be correct?

A. Yes, sir, they were correct.

Q. You found no error?

A. No, sir.

Q. When is that checking done?

A. That checking was done each day as soon as all the time-cards were in.

Q. What was the method pursued—actually pursued—by you, in checking up Putzar's time-sheets, and in answering the question I prefer not to have you give me the general method pursued by you, but the actual method pursued in this case?

A. The actual method and the method pursued in every case—

Q. Excuse me. I want you to eliminate every case, but to confine yourself if you can, to the actual method pursued in this case.

Mr. FRANK.—If the actual method pursued in this case is the actual method pursued in every case, where is the distinction?

Mr. McCLANAHAN.—I do not want to discuss it. I want him to confine it to the actual method pursued in this case.

A. The cards were taken and called off and checked one to the other from the sheets; that is, the sheets were taken and counted off, and the cards were checked to the sheets and checked back.

Q. Let me clear that up a little, if I can. In the

(Testimony of Richard W. Curtis.)

first place the sheets are turned in to you by Mr. Putzar; is that correct? [1303—1215]

A. Yes, sir.

Q. In the second place you take those sheets and the time-cards, and with somebody else in your office you call back one with the other and verify the sheets in that way?

A. Sometimes I did it with someone else. In the majority of the cases I did it myself. I would take the time-cards and arrange them in the same order they were on the sheets and I checked them off and turned each time-card over as I checked it off on the sheets.

Q. When you did not do it yourself you had someone to assist you?

A. Yes, sir. I was always there. I always handled it personally.

Q. So that you yourself participated in the checking at all times? A. Yes, sir.

Q. About the time of this checking. Do you say it was done daily?

A. It was done daily in most cases. There might have been an exception.

Q. What were the exceptions—do you remember them?

A. I don't remember any, no; it was done you might say nearly every day. There might have been an exception.

Q. You say there might have been an exception. You do not remember any, do you?

A. No, sir, I do not remember any.

(Testimony of Richard W. Curtis.)

Q. You do not remember any exceptions?

A. I do not.

Q. The work, then, of say August 23d, both night and day, was transcribed by Putzar on to a sheet which was furnished to you the next day, August 24th, and checked up by you on that day, August 24th?

A. They were checked up on August 24th, yes.

Q. And the August 24th would be checked up on August 25th, in the same way?

A. Mr. Putzar would get the cards before I [1304—1216] checked the sheets. Mr. Putzar would get the cards of August 23d on that night on August 23d, or the first thing in the morning.

Q. And what would he do with those cards?

A. He would check them up with his handbook; transcribe that time on to the sheets.

Q. When would he do that work?

A. When would he do that work?

Q. Yes.

A. I do not know when he would do it. I got it the following day.

Q. If you don't know don't say. You don't know when he would do it?

A. I don't know what place he would do it.

Q. I am talking about when, not place. Do you know when he would take the time-cards turned over to him by you and check them up with his handbook?

A. I would have the time-sheets in my possession for August 23d on August 24th.

Q. At what time?

(Testimony of Richard W. Curtis.)

A. I could not tell you the exact time.

Q. When would Mr. Putzar be placed in possession of the time-cards for August 23d?

A. Mr. Putzar would be placed in possession of them the first thing in the morning.

Q. Of August 24th?

Q. What do you mean by "the first thing in the morning"?

A. I mean right after the timekeeper arrives; after he is through with the men in the runway. Presumably that would be about 9 or 10 o'clock.

Q. So that Mr. Putzar would be placed in possession of the cards just as soon as possible the next morning?

A. He would be put in possession of the cards as soon as possible, yes. [1305—1217]

Q. After the timekeeper had—

A. After they had been thoroughly checked over.

Q. By whom?

A. By myself and the timekeeper. I could not give you the exact hour that we turned over the cards; that I cannot recall.

Q. We will get at it. On the morning of August 24th, the first thing done with the cards would be for you to check them over with the timekeeper; is that it? A. Yes, sir.

Q. What did that checking over consist of?

A. First, they would be checked over as regards the clock cards, as to whether the man worked on that date. Then they would be checked over as regards the job numbers.

(Testimony of Richard W. Curtis.)

Q. Then what. Is that all?

A. Then they would be turned over to Mr. Putzar.

Q. I am talking about the checking. Is that all the checking that was done?

A. That would be the checking.

Q. That is, you would take the clock cards and the time-cards and compare them to see that the hours worked were the same on both?

A. That the man had worked for that day.

Q. Had worked for that day? A. Yes, sir.

Q. That is, that he was personally present as shown by the clock cards? A. Yes, sir.

Q. That would be all the checking of the clock cards; is that it?

A. Yes, sir, the hours on the cards would not be the same as the hours punched on by the clock.

Q. I understand that.

A. We checked that the man worked a full day.

Q. That is all you did? You found that the man did actually work on that day, by the clock cards?

A. Yes, sir.

Q. Now, the checking as to the job number, when did you do that? [1306—1218]

A. That would be done from these sheets of lists of work.

Q. In your possession? A. Yes, sir.

Q. How many men were there in the United Engineering Works in August and September, 1909?

A. I could not recall that. That is two years ago.

Q. Give us an approximate idea—two or 300?

A. Yes, sir.

(Testimony of Richard W. Curtis.)

Q. Would there be more than 300?

A. There might have been.

Q. 300 or 400?

A. We hire and lay them off. Probably we would have a force of 25 more on one day than another and lay them off.

Q. What was your normal number of men regularly employed at that time?

A. I have never figured that out.

Q. You do not know how many men were ordinarily employed in the shop?

A. No, sir; it varies so.

Q. It runs between three and 400?

A. No, sir; I could not say as to that. I never stopped to figure that out.

Q. You are sure it would be between two and 300?

A. It would be at least 200.

Q. You take these 200 odd time-cards and compared each one of them with the lists of work to see that the job numbers on them were correct, is that the idea? A. Yes, sir.

Q. In this work you were assisted by whom?

A. By the timekeeper.

Q. What would he do?

A. The timekeeper would act as a clerk.

Q. He did not know anything about the lists of work, did he, and the correctness of the job numbers?

A. The timekeeper knew regarding the general line of work that was going on in the yard as well as myself.

Q. And these corrections which we find on a good

(Testimony of Richard W. Curtis.)

many of the [1307—1219] cards in red ink over the job numbers are corrections which you instigated? A. I instigated it; yes.

Q. And oftentimes, in fact every time you changed one of those cards you visited the man, did you not, and investigated the question of the propriety of the change?

A. I visited the man and investigated, or called the man in. If I had a great many of them I would call the man in, or call his foreman in.

Q. And the conference would result in the change, is that it?

A. Yes, sir. We would very often go out and look at the part or piece he was working on.

Q. Then when the cards are thus daily checked by you, in the morning they are turned over to Mr. Putzar? A. Yes, sir.

Q. Who would be the custodian of the cards from you to Mr. Putzar?

A. I handed the cards over to Mr. Putzar at times. The time-keeper handed them over at times. He would call at the office for them.

Q. Where was this checking done?

A. In the office of the United Engineering Works.

Q. Whereabouts?

A. In the back room; that is, in the main clerk's room of the United Engineering Works.

Q. On this side or the other side?

A. The other side.

Q. Is that where your headquarters are?

(Testimony of Richard W. Curtis.)

A. No, sir; my headquarters are on both sides of the bay.

Q. Your headquarters are on both sides of the bay?

A. Yes, sir; I visit both sides.

Q. In the morning you are on the other side?

A. In the morning I go over there.

Q. Always?

A. Not always; not the first thing in the morning; it depends on conditions. [1308—1220]

Q. When you do not go over in the morning, who does the checking of the cards over there?

A. I go over in the morning, but not at all times go over the first thing in the morning; what I mean by the first thing is, I arrive at 7 o'clock in the morning.

Q. Sometimes you arrive there later?

A. Not very often; but very seldom. I cannot recall the exact dates I arrived there later, but my hours are from 7 in the morning.

Q. But you go over there every morning?

A. I go over there every morning.

Q. For the purpose of checking up these cards?

A. Well, as near as I can recall, yes. That is what I mean, I might have arrived over there in the afternoon; it depends upon the business conditions, I could not give you the exact hour that I did arrive at the works during that time, not the exact date, nor the hour.

Q. And if you did arrive in the afternoon Mr. Putzar would get the cards later?

A. Mr. Putzar would get the cards later.

(Testimony of Richard W. Curtis.)

Q. But he would always get them on the day following the day on which the work was done?

A. Yes.

Q. Now, we have been talking about ship cards, have we not? A. Ship cards we are talking about.

Q. Did you at any time go on the ship to make these corrections in the cards?

A. I did at various times; yes.

Q. Did you ever see Mr. Putzar handling the ship time-cards in connection with his handbook?

A. Yes, I did.

Q. What was he doing?

A. The cards were turned over to him, and the time that I saw him checking over his handbook he had his handbook open on the desk and had got the cards in two piles that had been turned over at the time I was there.

Q. You don't know what he was doing?

A. He said that he was [1309—1221] checking them off with this handbook.

Q. Where was this?

A. This was once on board of the ship.

Q. Just once?

A. Yes. The reason why I say once is this, because I asked him what he was doing at the time.

Q. You seem to have a distinct recollection of that time, do you?

A. I have, yes, as it is a general custom for all timekeepers to have a handbook.

Q. Well, I am speaking now of your distinct recollection of having seen Mr. Putzar with his handbook

(Testimony of Richard W. Curtis.)

checking over time-cards? A. Yes.

Q. You have a distinct recollection of seeing him that once? A. Yes, sir.

Q. When was that, Mr. Curtis?

A. I can't recall the date.

Q. The early part of the work?

A. I could not say that.

Q. Where was that?

A. It was over at the United Engineering Works yard.

Q. But he was checking over the cards with his handbook? A. On board the ship.

Q. On board the ship? A. Yes.

Q. Whereabouts on board of ship?

A. I could not say as to that.

Q. You have no recollection?

A. No, I don't remember in what room he was or where he was.

Q. Was he in a room? A. I don't remember.

Q. That is rather strange, isn't it—you can recollect the fact of his doing that and cannot recollect whether he was in a room or not?

A. That is not strange, because a timekeeper in handing in the time-cards to enter, the timekeeper, as a general rule, inquires as to the manner in which he is keeping a check on him. [1310—1222]

Q. So then this was probably during the first part of the work, was it not?

A. It might have been; yes.

Q. It is probable, is it not?

A. It is probable it was.

(Testimony of Richard W. Curtis.)

Q. You went to see how he was keeping his time?

A. Certainly, yes.

Q. Do you remember distinctly making inquiry of him? A. I do, yes.

Q. On this occasion? A. I always do.

Q. I am speaking of this occasion when you were on the ship and saw him checking over the time with his handbook; do you remember making inquiry of him then?

A. I asked him what he was doing, how he was keeping a check on it.

Q. You recollect that, do you? A. Yes.

Q. What did he say?

A. He said that he was checking up the cards with his handbook.

Q. What else followed? A. Nothing else.

Q. Had you not at that time furnished him with a printed time-book?

A. Furnished him with a printed time-book?

Q. Yes.

A. Not to my knowledge—furnished him with a printed time-book?

Q. You know he had a printed time-book?

A. I know he had a handbook; where he got it, I don't know.

Q. Excuse me, I am referring to a printed time-book.

Mr. FRANK.—What do you mean by a printed time-book? Do you mean the lists of sheets?

Mr. McCLANAHAN.—Let the witness answer.

(Testimony of Richard W. Curtis.)

Q. Don't you know what I mean by a printed time-book?

A. No, I don't know what you mean by a printed time-book.

Q. Don't you know, Mr. Curtis, that the sheets which you have introduced in evidence here, the time-sheets of Mr. Putzar, were [1311—1223] taken from a printed time-book?

A. I just saw the time-book, the outside of that time-book. I did not inquire into the time-book, or how it was made, or anything else.

Mr. FRANK.—He is speaking of the sheets. The witness does not understand you.

Mr. McCLANAHAN.—I will make it perfectly clear. I am fair with the witness.

Mr. FRANK.—He means the time-sheets.

Mr. McCLANAHAN.—Q. You know that there was a printed time-book furnished to Mr. Putzar, do you not?

A. I do not understand what you mean by the printed time-book.

Q. Well, do you know that the sheets which you have introduced in evidence here in this case and marked your Exhibit No. 3 are sheets taken from a printed time-book?

A. Oh, yes, now I understand you; yes,

Q. I could not see why you did not understand.

Mr. FRANK.—He had his mind on Mr. Putzar's handbook.

Mr. McCLANAHAN.—Q. Just take your mind off of that for a moment. A. All right.

(Testimony of Richard W. Curtis.)

Q. You know, then, that Mr. Putzar had in his possession at that time a printed time-book?

A. Yes, sir.

Q. Did you not? A. Yes.

Q. You furnished him with that, did you not?

A. No.

Q. Where did he get it? A. I don't know.

Q. Did you ask him about this printed time-book at this occasion when you spoke to him about keeping time? A. I did not; no.

Q. Did you know at that time that he had the printed time-book?

A. I knew that he had because he said that he would transcribe the time on a time-book which he had, which would be more convenient. [1312—1224]

Q. So that this interview, from your last statement, must have been at the inception of the work, because you had not received from him at that time any of the sheets?

A. It must have been, yes—it must have been.

Q. You, then, at the inception of the work, Mr. Curtis, with your refreshed memory now, did inquire of Mr. Putzar how he was going to keep the time, and you found him at that time checking over with his handbook the time-cards? A. Yes.

Q. He told you what?

A. He told me that he was going to transcribe them on a form which he had, which would be more convenient, a form of time-book.

Q. He was going to transcribe the cards?

A. Yes.

